United States Court of Appeals for the Second Circuit



APPELLANT'S APPENDIX

On Total Alle

76-1541

United States Court of Appeals For the Second Circuit

UNITED STATES OF AMERICA,

Appellee,

-against-

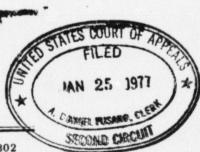
E. GARRISON ST. CLAIR,

Defendant-Appellant.

On Appeal From The United States District Court For The Eastern District Of New York

Appellant's Appendix

HARVEY J. MICHELMAN
MICHELMAN & MICHELMAN
Attorneys for Defendant-Appellant
250 West 57th Street
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(212) 586-1410



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UNITED STATES OF AMERICA

vs.

GARRISON ST. CLAIR

Case No. 76 CR 246

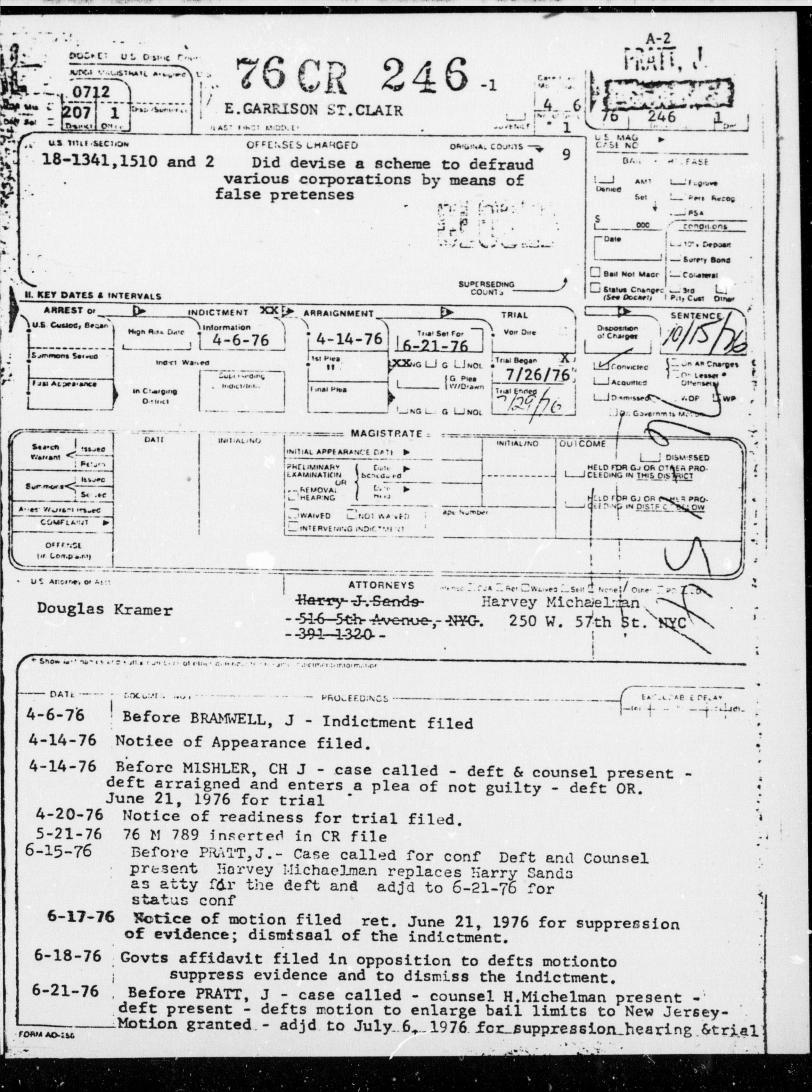
Judge G. C. Pratt

DEFENDANT APPELLANT

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27770	Refore PRATT, J Case called. Deft & ounsel present		
	Adjd to 7/26/76 at 10:00 a.m. for trial.	1 1	
776776	Before PRATT, J Deft & Counsel present: Suppression		
	hearing held & concluded. Motions to suppress & dismiss		
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at at	Jurors selected and sworn. Trial adjd to 7/27/76 at		
THE WORLD IN NO.	10:00 a.m. The Court dismisses count 4 of the indictment.		
7-27-76	Before PRATT, J - case called - deft & counsel present - trial		
221	resumed - Trial contd to 7-28-76.		
7-28-76	Before PRATT, J - case called - deft & counsel present - trial		
	resumed - Govt rests - defts motion to dismiss the indictment is denied - court dismisses count 9 of the indictment - deft		
	rests - Govt sums up - court excuses alternate jurors - marshals		
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2-29-76	Before PRATT, J - case called - deft & counsel present - trial resumed - Order of sustenance signed - jury returns with a		
B. Carrie	verdict of guilty to counts 1, 2, 3, and 5 to 8 incl. sentence		
	verdict of guilty to counts 1, 2, 3, and 5 to 8 incl. sentence adjd without date - bail set at \$10,000 P/R Bond unsecured.		
7-29-76	Jurors excused - trial concluded. By PRATT, J - Order of sustenance filed.		•
15 to 16			
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4	broaden the meanaing of the term ris epresentation in 18 USC		
2	Sec. 1510 to include misrepresentations made by a witness to		
	gn investigator had to be rejected and count 9 of the indictme which rested upon the broadened interpretation of the statute.	ent	
	to be dismissed (see Order as indicated etc)	nau	
8/27/76	Govt notice of appeal filed.		
8/27/76			
	the court of Appeals.		
10/6/76	N tice of Motion to dismiss the indictment returnable 10/15/76		
016176	filed and forwarded to chambers.		
0/6/76	Memo of law submitted in support of defts motions after		1
10/11/1-1	verdict and before sentence filed and forwarded to chambers.	İ	
10/14/76	Notice of withdrawal of appeal, filed for dismissing count nine of indictment.		
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10-13-70	4 transcripts filed (dated July 26, 27, 28, 29, 1976		1
10-15-76	6 Before PRATT, J - case called - deft & counsel H.Michelman		-
	present- defts motion todismiss the indictment - and set aside the verdict of guilty - motion argued		
	motion denied.		
10-15-76	Before PRATT, J - case called - deft & counsel present +		
	deft sentenced to imprisonment for 2 years on each		
	of counts 1, 2, 3, 5 & 6 - to run concurrent on each	1	
			-
2 0	PERSON OF CONTROL DATE RECEIPT NUMBER C.D. NUMBER		

76 CR 246

U.S. PT GARRISON ST. CLAIR

Docket No. PROCEEDINGS (continued) V. EXCLUDABLE DELAY (Document No.) -1 (c) 1 (d) execution of sentence is suspended and the deft if placed on probation for 3 yrs. probation period to commence upon defts release from confinement in prison; deft is sentenced on each of counts 7 48 to imprisonment for 3 years. Sentence to run concurrent on each count. Special condition that the deft serve 6 months and execution of balance of sentence is suspended and deft is placed on probation for 3 years. probationary period to commence after release from prison term. Sentences to run concurrently (ct. 7 & 8) but consecutive with sentence in counts 1, 2, 3, 5 & 6. Execution of sentence is stayed for 1 week. If deft files a Notice of appeal then execution of sentence is stayed pending appeal. 10-18-76 Judgment and commitment and order of probation filed - certified copies to probation & Marshal 10-26-76 Notice of appeal filed - docket entries and duplicate of Notice mailed to the court of appeals 11-15-76 Stenographers transcript filed dated 7-26-76 11-15-76 Govts Requests to Charge filed

record is

E. Garren de Clair

76CK246

Court for the Eastern District of New York, do hereby certify that the foregoing copy of the Docket Entries from A to and the original papers numbered from page 1 to 22 constitute the Record of Appeal.

I further testing that the last day to file said.

Court to be hereunto affixed, at the Borough of Brooklyn in the Eastern District of New York, this Sthe day of Askirk

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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK
UNITED STATES OF AMERICA,
v.

E. GARRISON ST. CLAIR,

Defendant.

INDICIMENT

Cr. No. 76 Cr. 246 (T.18, U.S.C., §1341, §1510 and §2)

THE GRAND JURY CHARGES:

COUNTS ONE THROUGH SIX

- At all times material herein the defendant E. GRRRISON
 CLAIR was doing business as Presidents' Publishing Systems, Inc.
- 2. Commencing on or about December 1, 1975, and contining thereafter at least to February 1, 1976, the exact dates being unknown to the Grand Jury, within the Eastern District of New York, the defendant E. GARRISON ST. CLAIR did knowingly and willfully devise and intend to devise a scheme and artifice to defraud various corporations and other commercial entities and to obtain money from those corporations and other commercial entities by means of false and fraudulent pretenses, representations, and promises, well k owing at the time that the pretenses, representations, and promises would be and were false and fraudulent when made, which scheme and artifice is set forth hereinafter.
- 3. It was part of the scheme and artifice that the defendant E. GARRISON ST. CLAIR would and did purport to create a commercial entity under the name of Presidents' Publishing Systems, Inc., through

which he would and did conduct the aforesaid scheme and artifice.

- 4. It was a further part of the scheme and artifice that the defendant E. GARRISON ST. CLAIR would and did cause invoices, together with postage paid business reply envelopes addressed to Presidents' Publishing Systems, Inc., 199 Merrick Road, Lynbrook, New York 11563 to be mailed to approximately 2750 corporations and other commercial entities in envelopes addressed "Attention Accounts Payable".
- 5. It was a further part of the scheme and artifice that the aforesaid invoices would and did purport to bill the corporations and other commercial entities for listings in The 1976 Presidents' Directory of Business & Commerce in the United States, Special Bicentennial Issue, in the amount of \$75.00.
- 6. It was further part of the scheme and artifice that the defendant E. GARRISON ST. CLAIR would and did make and cause to be made the following false and fraudulent pretenses, representations, and promises, well knowing that these pretenses, representations, and promises would be and were false and fraudulent when made:
- (a) That Presidents' Publishing Systems, Inc. was an existing corporation;
- (b) That the corporations and other commercial entities to which the invoices were sent had proviously ordered listings in the 1976 Presidents' Directory of Business & Commerce in the United States, Special Bicentennial Issue;
- (c) That proof sheets of the aforesaid listings would follow receipt of remittance.

7. On or about December 15, 1975, within the Eastern District of New York, for the purpose of executing the scheme and artifice and attempting to do so, the defendant E. GARRISON ST. CLAIR placed and caused to be placed in a post office and authorized depository for mail matter in Long Beach, New York, to be sent and delivered by the Postal Service, and knowingly caused to be delivered by mail according to the direction thereon, various envelopes containing invoices and postage-paid business reply envelopes as hereinafter set forth in Counts One through Six:

COUNT	ADDRESSEE
ONE	Barbara Lynn Stores, Inc. 132 West 31st Street New York City, New York
TWO	Amerace Corp 245 Park Avenue New York City, New York
THREE	I C M Realty 600 Third Avenue New York City, New York
FOUR	Manufacturers Hanover Corp. 350 Park Avenue New York City, New York
FIVE	Topps Chewing Gum, Inc. 254 36th Street Brooklyn, New York
SIX	Interstate Stores 111 Eighth Avenue New York City, New York

In violation of Title 18, United States Code, Section 1341 and Section 2.

COUNTS SEVEN TI ROUGH NINE

1. On or about the 23rd day of January, 1976, within the Eastern District of New York, the defendant E. GARRISON ST. CLAIR

willfully endeavored by means of misrepresentation to obstruct, delay, and prevent the communication of information relating to a violation of a criminal statute of the United States, Title 18, U.S.C., §1341, to a criminal investigator, a Postal Inspector of the United States Postal Inspection Service, by each of the following persons:

COUNT PERSON

SEVEN Kari Hopper

EIGHT Mary Ann Claire

NINE Evangiline Rojas

In violation of Title 18, United States Code, Section 1510.

A TRUE BILL

FOREMAN

DAVID G. TRAGER UNITED STATES ATTORNEY EASTERN DISTRICT OF NEW YORK UNITED STATES OF AMERICA,

NOTICE OF MOTION

76 Cr 246

-against-

E. GARRISON ST. CLAIR,

Defendant.

S1RS:

GARRISON ST. CLAIR, duly sworn the 16th day of June, 1976, upon the indictment and all the proceedings heretofore had herein, the defendant, E. GARRISON ST. CLAIR, will move this Court before the Honorable G. C. Pratt, on the day of June, 1976, in Room at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York, for an order granting the following relief:

1.

Pursuant to Rule 5 of the Federal Rules of Criminal Procedure,

an order:

(a) Suppression of evidence and statements fraudulently obtained by the Government; and

II.

Pursuant to Rule 12 of the Federal Rules of Criminal Procedure, an order:

(b) Dismissing the indictment,

AND for such other and further relief as this Court may deem just and proper under the circumstances.

Dated: New York, New York June 16, 1976

Yours, etc.

HARVEY J. MICHELMAN Attorney for Defendant E. GARRISON ST. CLAIR 250 West 57th Street New York, New York 10019 (212) 586-1410

TO: HON. DAVID TRACER
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEWYORK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
x
INITED STATES OF AMERICA,

AFFIDAVIT

-against-

E. GARRISON ST. CLAIR,

Defendant.

STATE OF NEW YORK) : SS.:

E. GARRISON ST. CLAIR, being duly sworn, deposes and says:

That I am the defendant in the within action and make this affidavit in support of the instant motion for (1) suppression of evidence and statements; and (2) dismissal of the indictment.

The motion should be granted because all of the evidence which was presented before the Grand Jury with respect to Counts 1 through 6 of the Indictment, was obtained by virtue of a fraud perpetrated upon me by the United States Attorney's Office and the United States Postal Service.

To begin with, sometime in early January, 1976, I was contacted by Postal Inspector, T. F. Johnson, who requested that I come in and speak with him regarding a solicitation by Presidents' Publishing Systems, Inc., a corporation which I caused to be formed in the State of Delaware.

Mr. Johnson informed mx that he felt that my solicitations for listings in a business directory which I intended to publish were not in conformity with Title 39, U.S.C. 3005, and that I should cease and desist making further solicitations.

I retained counsel, Harry J. Sands, and after extensive meetings with both Mr. Johnson and Asst. U.S. Attorney DePetris, I disclosed the totality of my operations and agreed to cease and desist in consideration of the Government's entering into a Consent Agreement with me, a copy of which is annexed hereto, marked exhibit "A", and made a part hereof.

It was my understanding that the supplying of the information, and the execution of the Consent Agreement would result in a termination of the proceedings by the United States Government against me with respect to the subject matter, to wit: Presidents' Publishing Systems, Inc. and 'Bicentennial First Edition of the 1976 Presidents Directory of Business and Commerce in the United States'.

When I was indicted in April, 1976, I felt it was a mistake as I relied upon the understanding reached with the U. S. Attorney's office that the matter was closed. Not being an attorney, and relying upon advice of Mr. Sands that the matter was in fact closed, I thought the mistake could be cleared up by a conference with the United States Attorney. I realize now that my belief was erroneous.

I am advised by my present attorney, Harvey J. Michelman, that while the double jeopardy clause of the United States Constitution does not in fact bar a criminal proceeding with respect to matters which have been adjudicated or settled in a civil proceeding involving the same subject matter, the interests of justice dictate that the information gained from me as the result of my being misled by the United States Attorney's Office, was obtained fraudulently and in derrogation of my rights against self-incrimination and that all evidence which was gathered from the information which I gave to the Government would be like "fruits on pois mous tree" and should likewise be suppressed.

The fact remains that I did not know that I was violating the law and I did not intend to do so and when asked by the United States

Attorney's Office to give the details of my enterprise, I did so freely.

relying upon his appresentations to me that the matter would be disposed of fully.

I made no intelligent waiver of my rights against self-incrimination, nor did I breach the Consent Agreement entered into between myself and the United States Government on January 26, 1976.

Accordingly, I respectfully request that this Court order a hearing to determine the voluntariness of my statements and a suppression thereof, together with a suppression of all evidence gathered by the fraudulent tactics of the Government. The granting of these motions would in fact leave insufficient evidence upon which this indictment could be found and accordingly, a dismissal of the indictment.

E. GARRISON ST. CLAIR

Sworn to before me this

16th day of June, 1976.

Carroy Fullic, State of New Laft.

No. 31-4521549

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Dualified in New York County
(County)
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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

E. GARRISON ST. CLAIR,

AFFIDAVIT IN OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS EVIDENCE AND DISMISS THE INDICTMENT.

75 CR 246

Defendant.

STATE OF NEW YORK)

COUNTY OF KINGS)

ss:

DOUGLAS J. KRAMER, being duly sworn, deposes and says:

- 1. I am an Assistant United States Attorney in the office of David G. Trager, United States Attorney for the Eastern District of New York, and have been assigned the prosecution of the above-captioned action. I make this affidavit in opposition to the defendant's motions to suppress certain evidence and to dismiss the indictment.
- 2. Defendant alleges that all of the evidence presented to the Grand Jury with respect to Counts 1 through 6 of the Indictment was obtained by virtue of a fraud perpetrated by the United States Attorney's Office and the United States Postal Service.
- 3. Defendant alleges that he attended "extensive meetings" with a Postal Inspector, T. F. Johnson, and an Assistant U.S. Attorney,

 DePetris, during which he was fraudulently induced to disclose "the totality of (his) operations."
- 4. Based on information supplied your deponent by Messrs.

 Johnson and DePetris, the following is a true and accurate summary of all

contacts between the defendant and said persons:

- a) On or about January 8, 1976 the defendant spoke with Postal Inspector Johnson telephonically concerning a certain administrative proceeding under Title 39, U.S.C., Section 3005 et seq., at which time the defendant advised Mr. Johnson, inter alia, that he had mailed solicitation letters, along with invoices.
- b) On or about January 23, 1976, three days after the execution of the consent order annexed as Exhibit A to defendant's affidavit, the defendant and his attorney, Harry J. Sands, met with Messrs. Johnson and DePetris in Mr. DePetris' office. Initially the meeting took place without the defendant present. His attorney was advised that the Government was investigating possible mail fraud in connection with Presidents' Publishing Systems, Inc., of which the defendant was the president. It was further explained that this criminal investigation was completely separate and apart from the previous civil and administrative proceedings. The defendant's attorney was asked to supply the names of those persons who assisted in preparing certain mailings. The attorney left the room and returned with the names of three women and their addresses. Additional information was requested, at which point the attorney called the defendant into Mr. DePetris' office. In response to a question from Mr. Johnson, the defendant stated that his corporation was incorporated in Delaware. He was told of the plans of the Government to speal with the three women assistants and was warned that these interviews would be part of a criminal investigation. The defendant was also warned that any attempt to influence the testimony of these

DePetris and the defendant.

6. On April 6, 1976 an indictment was returned against the defendant.

7. At no time was it ever stated or intimated that settlement of the administrative proceeding, In the Matter of the Complaint Against Presidents' Publishing System, Inc., P.S. Docket No. 4/149, or of the civil action, United States Postal Service v. E. Garrison St. Clair, d/b/a Presidents' Publishing System, Inc., E.D.N.Y., Civil Action No. 76 C 157, would in any way effect the investigation and possible criminal prosecution of the defendant. Indeed, the Consent Agreement, at paragraph 5, expressly sets this out.

WHEREFORE, it is respectfully requested that defendant's motions be denied.

Dated: Brooklyn, New York

June 18, 1976

DOUGLAS J. KRAMER Assistant U.S. Attorney

Sworn to before me this 18th day of June, 1976.

Sylvia E. Morris Notary Public, State of New York No. 24-4503861 Qualified in Kings County Commission Expires March 30, 1977.

To: Harvey J. Michelman, Esq.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

AUG 1 3 1976

UNITED STATES OF AMERICA.

Plaintiff, DOCKET NO. 76 CR 246

- against -

E. GARRISON ST. CLAIR,

MEMORANDUM AND ORDER

Defendant.

At the close of the evidence in this case, defendant moved to dismiss Count 9 of the indictment. After due deliberation, the Court granted the motion for the reasons which appear below. Because the question presented is a novel one, however, the Court assured the attorneys that a formal decision on the question would be forthcoming. This is that decision.

Counts 7 through 9 of this indictment are interrelated. They charge that the defendant "willfully endeavored by means of misrepresentation, to obstruct, delay and prevent the communication [to a United States Postal Inspector] of information" relating to a criminal violation. The three separate counts are related to three individuals to be referred to herein as witnesses #7, #8 and #9 respectively.

The evidence showed that defendant had been

charged with a mail violation and that he had consented to a temporary restraining order putting a stop on his mail deliveries. On the same day that he consented in open court to the temporary restraining order, he met with the postal inspector and an Assistant United States Attorney. At that meeting, it developed that there was a question as to whether a certain letter had been enclosed along with invoices which the defendant had sent to various business concerns.

The view asserted by the Government representative was that if no such letter was enclosed, then the invoices, on their face billings for listings in a commercial directory, would be fraudulent because they implied that the recipients had previously ordered the listings when, in fact, they had not. On the other hand, if the explanatory letter had actually been included with the mailings, then the inference of fraud would be negated and there very likely would have been no criminal prosecution. Whether or not defendant was to be prosecuted seemed to turn, therefore, on whether the explanatory letters had been included with the invoices in the mailings.

When asked if anyone could corroborate defendant's claim that the letters were included with the mailings, defen-

dant identified witnesses #7, #8 and #9, indicating that all four of them had sat around his kitchen table on a December evening and had "stuffed" the envelopes, including therein the letters.

The U. S. Attorney then informed the defendant, in the presence of his counsel, that his story would be checked with these three witnesses, and defendant was advised not to speak to the three witnesses about the matter except to the extent of indicating that they might be contacted by the postal inspector.

Witnesses #7 and #8, formerly female acquaintances of the defendant, both testified at the trial that they had been contacted by the defendant who told them, in substance, that someone would try to get in touch with them. Defendant also requested witnesses #7 and #8 to tell the person who contacted them that they had stuffed the envelopes with him and that they had included three items in each envelope: the invoice, a return envelope, and the crucial letter. Defendant did not indicate to witnesses #7 and #8 why the requested story was important, but simply indicated that it had something to do with business.

Both of these witnesses told defendant that they

would not lie for him, and in fact, when they were contacted by the postal inspector, they not only denied any knowledge of the mailing, but also told him of defendant's request that they tell a false story.

These facts, if believed by the jury, clearly fell within18 USC §1510, entitled "Obstruction of Calminal Investigations", which provides that anyone who "willfully endeavors by means of * * * misrepresentation to obstruct, delay or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator" shall be guilty of a crime.

Clearly, the defendant here willfully endeavored to delay or prevent the communication of information by witnesses #7 and #8 to the postal inspector. His means was a misrepresentation of the significance and importance of the information relating to the stuffing of the envelopes. The failure of his endeavor was immaterial. United States v. Carzoli, 447 F2d 774 (CA7 1971). Consequently, defendant's motions to dismiss Counts 7 and 8 were denied.

Witness #9, however, presented a different problem. That young lady was the girlfriend of the defendant and had been living with him for at least a year at the time of the trial. She contradicted the stories of witnesses #7 and #8 and testified to precisely the same story that defendant had requested witnesses #7 and #8 to tell the investigator. Witness #9 denied that the defendant had made any attempt to influence her testimony; she insisted that she was simply relating the events as they happened.

With respect to Count 9, therefore, the question was whether there was evidence from which the jury could infer that the defendant had endeavored by misrepresentation to delay or prevent witness #9 from communicating information to the investigator.

In opposition to defendant's motion to dismiss

Count 9, the Covernment argued that while there had been no misrepresentation by defendant to witness #9, the jury might find
that the defendant had caused or procured a misrepresentation
by witness #9 to the postal inspector. According to the
Government's argument, the means of misrepresentation which are
required by the statute were not misrepresentations by the
defendant to witness #9, but instead, misrepresentations by
witness #9 to the Government investigator. In short, the
Government contends that the element of misrepresentation in
this crime can be supplied by evidence that the witness mis-

represented facts to the Government inspector, and that misrepresentation by the defendant to the witness is not required.

In support of this argument, the Government offered some of the legislative history which led up to the enactment in 1967 of §1510. Particularly, the Government has directed the Court's attention to House Report #658 as set forth in 1967 U.S. Code Congressional and Administrative News 1760. On page 1762, the report states:

"Your committee wishes to make abundantly clear the meaning of the term 'misrepresentation' as used in this act. It is our intention that the actual procurement by a party of another party's misrepresentation or silence to a Federal investigator would be covered even though such procurement was not achieved by any misrepresentation."

In other words, the House committee in reporting this bill asserted the same dual interpretation for the word misrepresentation as the Government here advances. Despite the clear statement of intent by the House committee, however, the Court cannot accept that interpretation of this statute, and it is for that reason that Count 9 was dismissed.

Under the statutory language it is a crime to obstruct a criminal investigation by the use of any of five different means: "(1) bribery, (2) misrepresentation, (3) intimi-

P.049

dation or (4) force or (5) threats thereof". All five of these are acts which may be carried out by a defendant. A natural reading of the statute, given its purpose to "protect" "witnesses", would require that in each case it would be the witness against whom the bribery, misrepresentation, intimidation, force or threat was directed, and that it was the defendant who bribed, misrepresented, intimidated, used force, or threatened. The Government argues, however, that in using the term misrepresentation, Congress intended more than just a defendant's making a misrepresentation to a witness. A secondary meaning was also included, so that a defendant could be guilty under the misrepresentation portion of the statute if he either (1) misrepresented to the witness or (2) collaborated with the witness in order to get the witness to misrepresent information to the investigator. Although the House committee clearly indicated that this was their intention, the language adopted by Congress does not fairly convey the subtlety of the concept.

The Government argues that the committee's statement of intent is clear, and the Court agrees. However, a
crime cannot be created by language in a committee report;
only the language which Congress finally enacted as the statute
may do that, and in this case, a fair regling of this criminal

statute clearly negates the interpretation urged here by the Government.

This statute was enacted to fill a gap in the criminal prosecution process. At the time of its enactment, sections 1503 and 1505 of Title 18 already prohibited attempts to influence, intimidate, impede or injure a witness in a judicial proceeding, a proceeding before a federal agency, or an inquiry or investigation by Congress or one of its committees. The gap to be filled was the possibility of obstructing criminal investigations or inquiries before a proceeding had actually been initiated. According to the same House Report #658:

"The proposed legislation would remedy that deficiency by providing penalties for attempting to obstruct the communication * * *, thus extending to informants and potential witnesses the protections now afforded witnesses * * in judicial, administrative, and congressional proceedings."

Thus the statute was enacted to protect informants and potential witnesses prior to the time formal proceedings commence.

As stated by the committee elsewhere (id p. 1762)

"The sole purpose of the act is to protect informants and witnesses against intimidation or injury by third parties

with the purpose of preventing or discouraging informants or witnesses from supplying or communicating information to the Federal investigator." (emphasis supplied)

In view of these clear statements that the purpose of the act was to protect witnesses against intimidation or injury by third parties, one might wonder why the committee also indicated an intention that the "misrepresentation" included in the statute extended beyond the acts of the defendant and included a voluntary misrepresentation by the witness as well. If a witness' misrepresentation was a voluntary act and not the result of defendant's conduct, then under well settled principles the defendant would not have committed any criminal act. On the other hand, if the witness' misrepresentation resulted from acts of bribery, intimidation, force or threats by the defendant, then defendant would be guilty under the other acts proscribed by the same statute. Where a witness' misrepresentation is procured by, say, a friendly agreement (as may well have been the case here) it may well be that the defendant and the witness would be subject to other penal statutes, but their conduct does not seem to fall within the express prohibition of §1510.

General guidelines for interpreting criminal

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States v. Bass, 404 U.S. 336, 347-8, 92 S.Ct. 515, 522-3:

"[3.4] First, as we have recently reaffirmed, 'ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity.' Rewis v. United States, 401 U.S. 808, 812, 91 S.Ct. 1056, 1059, 28 L.Ed. 2d 493 (1971). See also Ladner v. United States, 358 U.S. 169, 177, 79 S.Ct. 209, 213,3 L.Ed. 2d 199 (1958); Bell v. United States, 349 U.S. 81. 75 S.Ct. 620, 99 L.Ed. 905 (1955); United States v. Five Gambling Devices, etc., 346 U.S. 441, 74 S.Ct. 190, 98 L.Ed. 179 (1953) (plurality opinion for affirmance). In various ways over the years, we have stated that 'when choice has to be made between two readings of what conduct Congress has made a crime, it is appropriate, before we choose the harsher alternative, to require that Congress should have spoken in language that is clear and definite.' United States v. Universal C.I.T. Credit Corp., 344 U.S. 218, 221-222, 73 S.Ct. 227, 229, 97 L.Ed. 260 (1952). This principle is founded on two policies that have long been part of our tradition. First, 'a fair warning should be given to the world in language that the common world will understand, of what the law intends to do if a certain line is passed. To make the warning fair, so fair as possible the line should be clear.' McBoyle v. United States, 283 U.S. 25, 27, 51 S.Ct. 340, 341, 75 L.Ed. 816 (1931) (Holmes, J.) See also United States v. Cardiff, 344 U.S. 174, 73 S.Ct. 189, 97 L.Ed. 200 (1952). Second, because of the seriousness of criminal penalties, and because criminal punishment usually represents the moral condemnation of the community, legislatures and not courts should define criminal activity. This policy embodies 'the instinctive distastes against

men languishing in prison unless the lawmaker has clearly said they should. H.
Friendly, "Mr. Justice Frankfurter and
the Reading of Statutes", in Benchmarks 196,
209 (1967). Thus, where there is ambiguity
in a criminal statute, doubts are resolved
in favor of the defendant."

a somewhat ambiguous statute in one of two ways. One way would limit the proscribed misrepresentation to that of the defendant himself; the other would broaden the statutory term to include misrepresentations by a witness. Despite the expressed view of the House committee, Congress' language in the statute itself is not "clear and definite", and it can be extended to the facts of this case only by an improper "ambiguous implication". (See also: Toussie v. U.S., 397 U.S. 112, 90 S.Ct. 858; U.S. v. Compos-Serrano, 404 U.S. 293, 92 S.Ct. 471.)

Here, I have concluded that Congress has not

"plainly and unmistakably" (United States v. Gradwell, 243 U.S.

476, 485, 37 S.Ct. 407, 411 [1917]) made it a federal crime

for a defendant to endeavor to prevent communication of information to an investigator by means of a witness' misrepresentation to the investigator. Had Congress intended to include the witness' misrepresentation as one of the means by which a defendant could be charged with the crime, appropriate

language to that effect could have been included in the statute. Without clear language defining the act of the defendant which is prohibited, penal consequences should not follow.

Accordingly, the Government's attempt to broaden the meaning of the term misrepresentation in 18 U.S. Code \$1510 to include misrepresentations made by a witness to ah investigator had to be rejected, and Count 9 of the indictment, which rested upon the broadened interpretation of the statute, had to be dismissed.

Dated: Brooklyn, New York August 11, 1976

GEORGE C. PRATT
U. S. DISTRICT JUDGE

UNITED STATES OF AMELICA,

NOTICE OF MOTION

-against-

76 Cr. 246

E. GARRISON ST. CLAIR,

Defendant.

MOTION BY :

MICHELMAN & MICHELMAN, ESQS. Attorneys for Defendant

DATE, TIME AND PLACE OF HEARING:

October 15, 1976, Courtroom No. 6, United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York, at 10:00 A.M.

SUPPORTING PAPERS:

Affidavit of Harvey J. Michelman, all prior papers and proceedings heretofore had herein.

RELIEF DEMANDED:

- (a) Dismissing the indictment pursuant to F. R. Crim. P. 12(b)(2), or, in the alternative for an arrest of judgment upon the grounds that the indictment fails to charge an offense as to the five counts of Mail Fraud as charged in counts 1-3 and 5 and 6 of the indictment;
- (b) Granting a judgment of acquittal or directed verdict of acquittal under F. R. Crim. p. 29(c) or, in the alternative, for a new trial pursuant to F. R. Crim. P. 33, upon the grounds that there was insufficient admissable evidence to establish an offense and/or to sustain a verdict of guilty with respect to the Mail Fraud as set forth above; and
- (c) Dismissing the indictment under F. R. Crim. P. 12(b)(2) or, in the alternative, for an arrest of judgment under Rule 34 F. R. Crim. P. upon the grounds that the indictment fails to charge an offense as to Obstruction of Justice as set forth in counts 7 and 8; and

as the Court may deer just and proper under the circumstance.

ANSWERING AFFIDAVITS:

If any, should be served upon the attorney for the defendant within five (5) days prior to the return date of this motion.

Dated: New York, New York October 4, 1976

Yours, etc.

MICHELMAN & MICHELMAN Attorneys for Defendant 250 West 57th Street New York, New York 10019 (212) 586-1410

TO: HON. DAVID TRAGER
U.S. ATTORNEY
EASTERN DISTRICT OF NEW YORK

ATT: ASST. U.S. ATTORNEY DOUGLAS KRAMER

THE UNITED STATES OF AMERICA.

AFFIDAVIT

-against-

E. GARRISON ST. CLAIR,

Defendant.

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

HARVEY J. MICHELMAN, being duly sworn, deposes and says:

- 1. That I am the attorney for E. Garrison St. Clair, the defendant herein, and, having reserved my right to make post-trial motions at the day of sentence upon the consent of the United States Attorney and with the Court's approval, move the Court for the following relief:
 - (a) To dismiss the indictment pursuant to F. R. Crim. P. 12 (b)(2); or in the alternative for an arrest of judgment upon the grounds that the indictment fails to charge an offense as to the five counts of mail fraud as charged in counts 1-3 and 5 and 6 of the indictment;
 - (b) For a judgment of acquittal or directed verdict of acquittal under F. R. Crim. P. 29 (c) or in the alternative, for a new trial pursuant to F. R. Crim. P. 33, upon the grounds that there was insufficient admissable evidence to establish an offense and/or to sustain a verdict of guilty with respect to the mail fraud charges as set forth above; and
 - (c) For dismissal of the indictment under F. R. Crim. P. 12(b)(2) or in the alternative, for an arrest of judgment under Rule 34 F. R. Crim. P. upon the grounds that the indictment fails to charge an offense as to Obstruction of Justice as set forth in counts 7 and 8 of the indictment; and
 - (d) for such other and further relief as the Court may deem just and proper under the circumstances.
- 2. Since a discussion of the law applicable to the motions herein will be made in a separate Memorandum of Law, the rationale for said motions

PODER I.

.. Pr reparately associate actual.

WITH RESPECT TO THE CHARGES OF MULL FRAUD IN THE INDICTIONAL UNDER COUNTS 1-3 AND 5 AND 6, THE INDICTIONAL SHOULD BE DISMISSED OR IN THE ALTERNATIVE, AN ORDER SHOULD BE ENTERED IN ARREST OF JUDGMENT.

- charged in Counts 1-5 and 5 and 6 of the indictment did not comprise such conduct as to constitute a crime under 18 U.S.C. Section 1541. In essence, counts 1-3 and 5 and 6 charged that "the defendant on or about December 15, 1975 within the Eastern District of New York, for the purpose of executing a scheme and artifice...placed in a post office...to be sent and delivered by the postal service...various envelopes containing invoices and postage paid business reply envelopes to Barbara Lynn Stores, Amerace Corp., ICM Realty, Tops Chewing Gum, Inc., and Interstate Stores, ... to defraud various corporations and other commercial entities and to obtain money from these corporations...by means of false and fraudulent pretenses, representations and promises, well knowing at the time that the pretenses, representations, and promises would be and were false and fraudulent when made..."
- 4. The government then endeavored to prove that the mere mailing of an invoice without a notice that the same was a solicitation was sufficient to sustain an indictment against the defendant for mail fraud.
- 5. It is respectfully urged that the case law regarding mail fraud as set forth in the indictment as well as the Congressional Record indicating the intent of Congress in passing the law, both hold to the contrary.
- 6. Additionally, it is further urged that the conduct of the defendant was covered by a Civil statute which was the sole remedy of the government in dealing with such conduct. The legal argument with respect to this conduct is also set forth in the accompanying Memorandum of Law.

POINT II.

THE DEFENDANT IS ENTITLED TO A JUDGMENT OF ACQUITTAL OR DIRECTED VERDICT OF ACQUITTAL UNDER F.R. CRIM. P. 29(c) OR IN THE ALTERNATIVE, HE IS ENTITLED TO AN ORDER GRANTING HIM A NEW TRIAL PURSUANT TO F.R. CRIM. P. 33 UPON THE GROUNDS THAT THERE WAS INSUFFICIENT ADMISSIBLE EVIDENCE TO ESTABLISH AN OFFENSE AND/OR TO SUSTAIN A VERDICT OF GUILTY WITH RESPECT TO THE MAIL FRAUD CHARGES AS SET FORTH IN THE INDICTMENT.

- 7. The government, in an effort to establish that the defendant intended to defraud the recipients of his mailings, endeavored to prove that no notice of solicitation was sent with the invoices. In fact, the government conceded that had the notices of solicitation been sent with the invoices there would be a failure of proof of fraudulent intent on the part of the defendant.
- 8. To begin with, the government introduced evidence that the mailing was sent to two thousand, seven hundred fifty (2,750) top commercial firms in the United States. In an effort to prove a fraudulent scheme on the part of the defendant it introduced five witnesses solely from the New York City area who stated that they had not seen a notice of solicitation but could not say beyond a reasonable doubt that a notice of solicitation was not enclosed in the mailing when it was received by their respective companies.
- 9. The law with respect to this kind of proof is exactly opposite to the findings in this case and is more fully set forth in the Memorandum of Law submitted herewith.
- 10. Additionally, the defendant respectfully urges that the witnesses who gave testimony as to the receipt of the mailings were incompetent to testify with respect thereto since they were not the actual recipients, they did not observe the opening of the mailings. Additionally, it

was established that the witnesses who testified were at best second hand recipients and possibly third, fourth or fifth hand recipients of said mailings.

11. As set forth in the Memorandum of Law submitted herewith, the admission into evidence of their testimony in order to prove that no notice of solicitation was received by the respective firms is contrary to Rule 602 of the Federal Rules of Evidence. Said argument is more fully set forth in the Memorandum of Law submitted herewith.

POINT III.

DEFENDANT MOVES FOR A DISMISSAL OF THE INDICTMENT UNDER F.R. CRIM. P. 12(b)(2) OR IN THE ALTERNATIVE FOR AN ARREST OF JUDGMENT UNDER RULE 34 F.R. CRIM. P. UPON THE GROUNDS THAT THE INDICTMENT FAILS TO CHARGE AN OFFENSE WITH RESPECT TO COUNTS 7 AND 8 WHICH CHARGE OBSTRUCTION OF JUSTICE BY THE DEFENDANT.

- 12. The indictment charges that on or about January 23, 1976, the defendant "... endeavored by means of misrepresentations to obstruct, delay, and prevent communication of information relating to a violation of a criminal statute of the United States, Title 18, U.S.C., Section 1341, to a criminal investigator ... by ... Kari Hopper and Mary Ann Claire in violation of Title 18, U.S.C., Section 1510."
- transcript will reveal that both Mrs. Hopper and Miss Claire testified before the Grand Jury that on or about January 23, 1976, the defendant had a conversation with both Mrs. Hopper and Miss Claire in the presence of each other wherein he allegedly told them that someone would try to get in touch with them and if someone did in fact get in touch with them, to tell them that they (Mrs. Hopper and Miss Claire) helped the defendant stuff envelopes and that included in the envelopes were an invoice, a return envelope and a notice of solicitation.
- before Court at that time was civil in nature, to wit: the execution of a Consent Decree that very day before Honorable Jack Weinstein that there was no notice to the defendant of a criminal investigation and further that since he did not inform the prospective witnesses that it was a criminal investigation or that the person who would be in touch with them was a criminal investigator, the charge of obstructing justice against those

witnesses could not be sustained.

- respectfully urged that since the government was precluded from bringing criminal charges with respect to the defendant's acts as set forth herein as well as the Memorandum of Law, the government cannot argue that the misrepresentations, if they were in fact made by the defendant, were in relation to the violation of a criminal statute of the United States.

 Further argument is set forth in the accompany Memorandum of Law.
- Congressional Record with respect to the legislative intent as to the use of the word 'misrepresentation'. In researching the Congressional intent the Court must consider that it was the Senate which first passed the bill which was then referred to the House of Representatives which gave the same final passage subject to the President's signature thereon. In the House of Representatives, the word misrepresentation was confined to "a specific and important purpose", that purpose was solely as a weapon against organized crime.
- 17. There is no question but that the defendant was not alleged to have been a member of any organized crime syndicate or family and therefore, these charges of obstruction of justice by means of a misrepresentation cannot be sustained against the defendant herein.

CONCLUSION

By reason of all of the foregoing arguments and the law as set forth in the accompanying Memorandum of Law, it is respectfully urged that the instant motions be in all respects granted, together with such other and further relief as the Court may deem just and proper under the circumstances.

HARVEY J. MICHELMAN

Sworn to before me this day of October, 1976.

41.1.47	E. GARRISON ST. CLAIR	76 CR	246	
	The man design of the state of	e contribute and the	or recorded in terminal	estate.
	In the presence of the attorney for the government one defendant appeared in person on this pake	10	15	1976
S. O' SEL	Hervey Michelman, Esq.	and pixed whell you wanted attail	er pessaden ence of sound	des ec ti
	WITH COUNSEL Land of counsel		T GUILTY	
PLEA	there is a factual basis for the plea.		,, 60,61	
	There being a finding verdict of LXX GUILTY. In counts 1,2,3,	5,6,7, 6	8.	
FINDING &	Defendant has been convicted as charged of the offense(s) oviolating T-18, 2, in that commencing on or about Dec. 1,1975 and at least to Feb. 1, 1976, exact dates being unknown the defendant, did knowingly & wilfully devise a defraud various corporations and other commercial money by means of false and fraudulent misrepress and to obstruct, delay and prevent the communical relating to a criminal investigator, a Postal Instruction Service	U.S.C.Sed continuous to the scheme of the entitie entation tion of the pector continuous control of the control	ecs.134 ing the Gran and art as and as prom informs f the L	to obtain
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SPECIAL CONDITIONS OF PROBATION	on each count. Special condition that the defen in jail-type institution. Execution of remainde suspended and the defendant is placed on probati Probation period to commence upon release from c	on for 3 confinement th each of 6. Execut files	tence in years. In the the cution a Noti	orison. of ice of
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- Q What are they?
- A l is the envelope that it came in, and 2 is the selfaddressed envelope that came inside the envelope.

MR. KRAMER: Can we ask that those items be marked into evidence.

MR. MICKELMAN: No objection.

TME COURT: Let them be marked.

(Government's Exhibits 1 and 2, previously marked for identification, now received in evidence.)

- Q Now, as to Item 5-A, can you tell us what that is?
- A It is an invoice.
- Q That invoice is addressed to Columbia Pictures, is it not?
- A Yes.
- Q With the exception of the address on the invoice, that invoice is similar to the invoice that you received in the mail?
- A Yes, it is.
- Q The invoice you received in the mail was addressed to Interstate Store, is that right?
- A Right.

MR. KRAMER: I ask that this be marked into evidence as an invoice similar to the invoice received, with the exception of the address on it.

MR. MICHELMAN: I have no objection, your Monor.

TME COURT: It is marked.

THE CHERK: Government's Exhibit 1 is received in evidence. Government's Exhibit 2 is received in evidence. Government's Exhibit 5-A is received in evidence.

- Q Who actually received that mail?
- A Actually, it would be received by the mail room.
 - Q What would they do with it?
- A They would direct it to the --

MR. MICHELMAN: I object, your Monor, as to what they would do unless she actually saw.

MR. KRAMER: Your Monor, I believe, if I may,
I think it might be appropriate for a side-bar.

THE COURT: The objection is overruled. Just lay a foundation for her knowledge.

(Record read.)

- A The mail was directed to that particular department.
 - Q Are you familiar with the mail room operations?
- A Definitely so.
- Q What is the normal routine practice that Inter-State Stores handle mail addressed as this mail to accounts payable?
- A Well, generally it would go to accounts payable.

But in this case our company, it was in bankruptcy for two years. Our accounts payable were sent up to Utica, New York. And there were some invoices that were paid in New York and some in Utica. So our mail room would open it up generally and direct it to whomever they feel would handle it. In this particular case, because it said "President" on it, they sent it to Mr. Merbert Siegel, who was our president.

- Q And you received it?
- A Yes.
- Q In what form would the mail room, as a normal routine practice, transmit this to you?
- A In a mail pouch.
- Q Would the contents of the envelope be inside it or outside the envelope?
- A It would be inside, stapled shut.
- Q I am going to show you Exhibit 4 for identification. Looking at Exhibit 4, or just one side of it, the side facing you now, did that letter also come in the mail?
- A Mo.
 - Q It did not?
- A No, it did not.
 - Q Was the invoice, Exhibit 5-A, was that invoice

ever actually paid?

- A No, it was not.
 - Q Thank you.

CROSS-EXAMINATION

BY MR. MICHELMAN:

- Q Is that Miss or Mrs. Stackhouse?
- A Mrs.
- Q Mrs. Stackhouse, how many people work in the mail room in your company?
- A Two.
 - Q Now many pieces of mail cross the desk?
- A Not too much. I would say maybe a couple of hundred a day, maybe three hundred.
- Q About three hundred a day. And on the day that you received this mail you were not in the mail room when it was opened, were you?
- A No, I was not.
 - Q You did not see who opened the mail, did you?
- A No.
 - Q Did you ask who opened this piece of mail?
- A At that particular time, no.
- Q And you don't know if something may have fallen out of the mail pouch or fallen out outside before the mail was sent up to you?

- A It is possible, but not probable.
 - Q But it is possible?
- A Of course it is possible.
- Q When the mail is directed to your attention it is put in a pouch, am I correct?
- A It is stapled shut and then put into a mail pouch.
- Mail pouch, and somebody had to decide whether to send that to you or to Utica or the accounts payable department, right? So people handled this mail, am I correct?

 A Just in the mail room.
- Q You did not observe the handling of this mail, did you?
- A No.
- Q So you cannot say to your own knowledge that there is no possibility that Exhibit 5, the invoice -- I am sorry, the covering letter, Exhibit 4, that this covering letter was not in fact received?
- A No. When I received it it was not.
- Q But you do not know when the company received it in the mail room, you cannot say positively that this was not enclosed?
- A Mo, I can't.
 - Q Thank you. I have no further questions.

DIRECT EXAMINATION

BY MR. KRAMER:

- Q Mr. Reiff, are you currently employed?
- A Yes, sir.
 - Q What is your position?
- A I am vice-president and controller of Topps Chewing Gum, Inc.
 - Q Was that your position in 1975, December?
- A Yes, it was.
- Q Do you recall whether in December of 1975 Topps
 Chewing Gum received a mailing from an organization calling itself the President Publishing Systems, Inc.?
- A Yes, I do recall receiving that.
- Q I want to show you Government's Exhibit 3 for identification. Can you identify that?
- A Yes, this is an invoice that had come into my office and it got some --
 - Q It is an invoice that you received?
- A Yes.

MR. KRAMER: We will offer that into evidence, your Monor.

MR. MICHELMAN: I have no objection.

THE COURT: Let it e marked.

THE CLERK: Government's Exhibit 3 is received

or types of subscriptions as we have. And because of this type of invoice I required that all these things pass my desk for approval.

- Q Let me show you another item. This is Government's Exhibit 4 in evidence. Mave you ever seen this in your company?
- A Not to my recollection.
- Q So, then, do you recall whether or not that particular letter was with the invoice when you received it?
- A To my recollection, it would not have been.
 - MR. MICHELMAN: Excuse me, please, your Monor.

 The gentleman was talking and Mr. Kramer interrupted him. I would like to hear the end of that answer.
- A To my recollection, it would not have been. If I received invoices of this nature, with a solication, I generally just throw them into the garbage. It is only invoices that I feel are slightly illegitimate or prove to be slightly illegitimate that I pursue in this manner. And I get quite a number of solicitations every week which I just throw out every lay with my junk mail.
- Q Can you perhaps -- [am not clear on this -- this letter that came into your company, where did it

first enter in Topps Chewing Gum?

- A Okay. All mail comes into our mail room, and if it is marked to the attention of any individual or a department, it is sent there. If invoices are not marked to the attention of an individual they are sent to the accounts payable department. They are opened in the mail room and looked at, and the papers will be sent over to the accounts payable department.
- Q And the accounts payable department would then do this check for purchase orders?
- A Accounts payable would send for a purchase order, and not having one, they would have sent me all the papers plus the invoice. If there are two invoices sent in, they would retain one and send out a duplicate stamped this way. Sometimes they don't follow that procedure on this type of thing and they just send the whole stack of papers to me.
- Q Did your company order a listing in President
 Publishing Systems?
- A No. The reason I put this down -- "Do not pay without my signature" -- is so that I can be sure the invoice did not get accidentally paid while I checked with a number of people who might have requested this type of listing. I surely don't know what is legitimate

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use, the exhibits.

MR. MICHELMAN: I would like the covering letter in my hand, if you don't mind.

THE COURT: Exhibit 4 did not get to the jury.

MR. KRAMER: I think we better keep it out

until after we have used it a number of times.

CROSS-EXAMINATION

BY MR. MICHELMAN:

- Q Mr. Reiff, about how many pieces of mail a day does your mail room have?
- A I imagine hundreds, hundreds for certain.
- Q And in the routine, it took a couple of steps before it got to you?

A Correct.

- I believe it is your testimony on direct, but if I am not correct, please tell me, that you might have taken Government's Exhibit 4 in evidence, you might have thrown it in your wastepaper basket with the junk mail?

 A No, what I said was I didn't recall seeing it with the invoice, and I think if I had seen it, I would have taken the invoice and the letter and thrown it in the garbage.
 - Q Can you say that your company, to your personal knowledge, absolutely did not receive a copy of Exhibit 4?

A No, sir.

MR. MICHELMAN: Thank you. I have no further questions.

Would you continue passing Exhibit 4 around now?

THE COURT: Is there any redirect?

MR. KRAMER: There is no redirect.

THE COURT: Call your next witness.

MR. KRAMER: The Government calls its next witness, Florence Gabler.

FLORENCE GABLER, called as a witness
in behalf of the Government, having first been duly
sworn by the Court, testified as follows:

DIRECT EXAMINATION

BY MR. KRAMER:

- Q Miss Gabler, are you currently employed?
- A Yes.
 - Q By whom?
- A I am self-employed.
 - Q What is the nature of your business?
- A Offset printing.
 - Q Does it have a particular name?
- A A-1 Duplicating Service.
 - Q In December of 1975 were you so self-employed?
- A Yes.

President Publishing Systems, Inc.?

- A Yes.
- Q I show you Exhibit 6 for identification. Will you look at it and identify it?
- A Yes, it is a worksheet that I do the bill from.
 - Q Is it for any particular concern?
- A Yes, it is for President Publishing.

MR. KRAMER: We will offer this into evidence, your Honor.

MR. MICHELMAN: I have no objection.

THE COURT: Let it be marked.

THE CLERK: Government's Exhibit 6 is received in evidence.

- Q Now, Exhibit No. 6, whom was this prepared for?
- A For President Publishing.
 - Q Did Mr. St. Clair ask for it or somebody else?
- A No, he ordered the work.
- Q What does this worksheet consist of? What goes on it?
- A This was for 3,000 business reply envelopes, 3,000 window envelopes, No. 10, which are the large ones, and 3,000 letters.
- Q I am going to show you Government's Exhibit 2, 1, and 4. Are those the letters and envelopes that you

**

- Q Can you show the jury how the letter was folded?

 A In half.
 - Q Is that indicated on the worksheet?
- A It says, "Single-folded, "which this would be, a single fold.
- Q Now, you billed Mr. St. Clair for this work, did you not?
- A Yes, I did.
- Q I show you Exhibit 7. Is this the invoice for the billing?
- A Yes, it is.

MR. KRAMER: Can I have this marked in evidence?

MR. MICHELMAN: I have no objection.

THE COURT: Let it be marked.

THE CLERK: Government's Exhibit 7 is received in evidence.

- Q Now, the total billing was \$168, is that correct?
- A Including tax, yes.
 - Q That included the mechanical for the invoice?
- A Yes, it did.
- Q Of that total billing, how much did it cost
 Mr. St. Clair, how much did you charge Mr. St. Clair for
 the printing of the letter?
- A The one item?

- Q The one item.
- A The letter, 34.50 and 10.80 for the folding.
 - Q So 34.50, including the folding?
- A Right.
- Q Now, did Mr. St. Clair use your facilities,
 A-1 Duplicating, in connection with anything else in
 connection with President Systems?
- A Yes, he did.
 - Q What was that?
- A I gave him the courtesy of using our mailing and postage machine as an accommodation.
 - Q Did you bill him for that?
- A Yes, I did.
- Q I am going to show you Government's Exhibit 8, an invoice. Is that the invoice for the mailing charge?

 A Yes, it is.
 - MR. KRAMER: We ask that that be put into evidence, your Monor.

MR. MICHELMAN: I have no objection.

THE COURT: Let it be marked.

THE CLERK: Government's Exhibit No. 8 is received in evidence.

Q Can you tell us how much the billing for the postage was?

- A With the service charge, \$285.
 - Q And without the service charge?
- A \$275.
 - Q Which indicates how many items of mail?
- A Well, it was ten cents apiece.
 - Q So, 2,750 items?
- A Yes.
- Q Did you see Mr. St. Clair do the meter work himself?
- A Yes.
 - Q What did that consist of?
- A Me brought in stuffed envelopes with the flaps up and he put it through the postage meter, which sealed it and put the postage on.
- Q Thank you very much. That will be all for the Government.

THE COURT: Is there any cross-examination?

MR. MICHELMAN: May I approach the bench,

please, your Monor.

(Side-ber conferenc:.)

MR. MICHELMAN: You: Monor indicated there would be a morning break. This is the thickness of all the grand jury minutes I have, and she has giver the 3500 material. And I ask the Court to

Exhibit 4, were all ordered at once?

- A Correct.
 - Q You had a mock-up for the invoice, did you not?
- A Yes. Well, you said I did a mock-up.
 - Q Well, your firm did a mock-up?
- A Not a mock-up. We did a mechanical.
 - Q A mechanical?
- A Correct.
 - Q Does your print on NCR paper?
- A No, we do not.
- Q Will you explain to the jury what NCR paper is, and in the event of multi-copies --
- A Well, even in this particular instance I have not seen too much of it over the years because we do not handle it. NCR paper eliminates the use of carbon paper. In other words, if there were five times, you see them some play white, pink, yellow, green, and blue, instead of opening each one and inserting the carbon, the NCE paper is made that if you write on the top copy with a ballpoint pen it will automatically go through to the five copies and eliminate that. It is a time-saver.
- Q That is true in the event that there is typing on the front cover?
- A Correct. It would go right through.

- Q What did he say to you and what did you say to him?
- A Me asked for copies of the work that we had done for President Publishing.
 - Q Did he ask for them or did he demand them?

 MR. KRAMER: I object, your Monor. That is a characterization. It is very leading.

THE COURT: What did he say, Miss Gabler, to the best of your recollection.

THE WITNESS: I am afraid I will sound a little prejudicial. I was not particularly happy with any of my conversations I had with Mr. Johnson. I found him to be very authoritarian in his ways of speaking.

THE COURT: Miss Gabler, what did he say?

THE WITNESS: He wanted the copies. He asked for them, but in a strong sense of asking.

- Q And as the result of your first phone call did you make a phone call to the defendant?
- A Yes, I did.
- Q What did you say to the defendant and what did the defendant say to you?
- A I had to just say that we had done this type of work for many, many customers over the years and we still do, and in 12 years of doing --

Gabler - for Government - cross

MR. KRAMER: Your Monor, I am going to object.

This is not responsive at all.

THE COURT: Sustained. The jury will disregard the witness's comments.

You were asked what your conversation was with the defendant. Please answer the question.

THE WITNESS: I called Mr. St. Clair and told
him that someone had been in the store from the postal
authorities, a Mr. Johnson, was there any problem.
And that is the extent of the conversation.

- Q When was the printing finished?
- A Usually a day or two before the invoice. A couple of days before the invoice. The invoice is dated the 12th, so I would imagine the first week in December or a day or two before the invoices are done.
- Q Now soon thereafter were the printed matters delivered to the defendant?
- A It was not delivered. He came in and picked it up.
 - Q About how soon afterwards?
- A Probably the next day or -- I don't remember the time.

 It was early December. This is all I can remember. It
 was in December.
- Q Thereafter the stuffed envelopes were brought back to your place of business for the purpose of using

your mailing machine, is that correct?

A Correct.

- Q After you delivered the printed matter, about long after did Mr. St. Clair pick up the printed matter, if he returned to your place of business for the purpose of using your mailing machine?
- A I think the first time he came back it was maybe over the weekend. In other words, he may have expected it. I am trying to remember. I cannot, really. Maybe I worked over it over the weekend and Monday I brought it in to --
 - Q Did he tell you he had help doing it?
- A Yes.
 - Q Did he say who helped him?
- A He said some of the girls from the building.
- Q Miss Gabler, did there come a time when the printing was being discussed that Mr. St. Clair had a conversation with your firm relative to the printing of the President directory?

A Yes.

- Q Can you tell us the substance of that conversation?
- A That was in the very beginning when the order was girst placed. Mr. St. Clair inquired of Mr. Gabler whether

he could handle this type of job, and Mr. Gabler answered, to the best of my recollection, why worry about it now, let's wait and see. And that was it.

Q But there was an inquiry with respect to the publishing of the directory?

A Yes, there was.

Q That was at the same time that the printing of Exhibits 1, 2, and 4 were ordered, that is, the window envelope, the return envelope, and the covering letter?

A Yes.

Q And you recall that Mr. St. Clair said that he had help from girls in the building with respect to the stuffing of those envelopes?

A Yes, I do.

MR. MICHELMAN: I have no further questions.

THE COURT: Is there any redirect?

MR. KRAMER: Yes, your Monor, but I am waiting to get back to pick up a document.

MR. MICMELMAN: May we approach the bench, your Monor? May I just ask one question?

By Mr. Michelman:

Miss Gabler, did we discuss your testimony here prior to this moment?

A No, we have not.

statement made prior to then --

THE COURT: Well, in so far as this witness's testimony about other mail operations, I would say at this point at least that they appear to be irrelevant, and we will exclude them without prejudice, of course, to you recalling him and developing them if the case develops in a certain pattern.

DIRECT EXAMINATION

BY MR. KRAMER (Continued):

Q Mr. Gordon, did there come a time in 1975 that
Mr. St. Clair requested the services of your company under
the name President Publishing Systems, Inc.?

A Yes.

- Q What services did he request?
- A He requested the mail under PPSI, which is President Publishing Systems, Inc., be delivered, which was to be delivered at 199 Merrick Road, be held for him to pick up.
- Q That is the address of your company, 199 Merrick Road, Lynbrook?

A Yes.

Q Was mail received addressed to the President Publishing Systems, Inc.?

A Yes.

Q At your company's address?

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- A Yes.
 - Q Did you pick it up?
- A Yes.

MR. KRAMER: Thank you.

THE COURT: Is there cross-examination?

CROSS-EXAMINATION

BY MR. MICHELMAN:

- Q Mr. Gordon, how many subscribers do you have in Answer Rite?
- A Approximately in the 280-range.
- Q Does anybody else but Mr. St. Clair request that you have mail service for them?
- A Yes.
- Q Do any of these people have corporate names in which they receive their mail?
- A Yes.
- Q Then Mr. St. Clair is not the only person who has a corporation which receives mail at your mailing address, is it?
- A No.

MR. MICHELMAN: Thank you. I have no further questions.

KENNETH BROOKS, called as a witness in behalf of the Government, having first been

duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KRAMER:

- Q Mr. Brooks, by whom are you employed?
- A At the moment I am unemployed.
 - Q In December of 1975 by whom were you employed?
- A Investors Central Management Corporation.
 - Q And in December, what was your position?
- A Controller.
 - Q What were your duties at that time?
- A They were accumulating all the financial information for ITM Corporation and IMC Realty Corporation.
- Q Is there any connection between ICM Corporation and IMC Realty Corp.?
- A ICM Corporation is the administrative realty arm of IMC Realty. They are completely in charge of IMC Realty.
 - Q And you are the controller?
- A Yes.
 - Q For both?
- A For IMC Corporation, which effectively is the controller, yes.
- Q And in December of 1975 did IMC Realty receive a mail from an organization called President Publishing

- At what point in that chain do you get it?

 A At the end of the month I review all the invoices that were paid during the month.
- Q I am going to show you Government's Exhibit 4 in evidence. Was that exhibit annexed or attached or enclosed with the invoice, No. 11?
- A No, not when I saw it.
- Q If ICM Realty had received a request, a solicitation, or a printing in a business directory, would you have been involved in any way in handling that?
- A No, I would not.
- Q Would you have received the solicitation with the invoice?
- A If it was included in the invoice, yes, I would have.
 - Q Why is that?
- A Well, normally, everything is kept together and flowed through the same channels together. It is not separated.
- Q In this case you did not receive Government's Exhibit 4, this letter?
- A No, I did not.
 - Q Was that invoice paid?
- A Yes, it was.
 - Q I show you a check. Can you identify this

check? It is a Government's exhibit, 12 for identification.

- A Yes, it is a check of ICM Realty.
 - O Paid to?
- A Paid to President Publishing Systems, Inc.

MR. KRAMER: I offer this in evidence.

MR. MICHELMAN: No objection.

THE COURT: Let it be marked.

THE CLERK: Government's Exhibit No. 12 is received in evidence.

Q Was this check negotiated? Can you tell from looking at it?

MR. MICHELMAN: We will concede it was negotiated by President Publishing Systems.

- Q Did ICM Realty ever receive any proofsheets or other material back from President Publishing Systems, Inc.?
- A Not to my knowledge, no.

MR. KRAMER: Thank you. I have no further questions.

CROSS-EXAMINATION

BY MR. MICHELMAN:

- Q Mr. Brooks, before the invoice would come to you, where would it have come to in your company, who would have received it on behalf of your company?
- A It would initially go to the receptionist, who would

then channel it to the accounts payable department. It would then channel to the treasurer of the company, who approved the bill. He in turn would send it back, and it would be paid.

Q About how many hands would you say would have touched that piece of mail?

A Two, three hands.

Q And over how long a period of time would that piece of mail have gone through your company before it reached you? It could have been a couple of days, right?

A Sure, easily.

Q I show you Government's Exhibit 4 in evidence and ask you if you recognize it.

A It is just what he showed me just now.

Q Can you say positively that this piece of mail similar to this never reached your company?

A No. I can't.

MR. MICHELMAN: Thank you.

Has everybody seen this?

THE JURORS: No.

Q Mr. Brooks, am I correct you are no longer employed by ICM Realty?

A That is correct.

Q Do you know of your own knowledge whether ICM

- Q What were your duties in public relations?

 A The administrative assistant to the secretary of the corporation and director of public relations and advertising.
- Q Did there come a time in December of 1975 that

 Todd Shipyards, Inc received a mailing from the President

 Publishing Systems, Inc.?
- A That is correct.
 - Q Included in that mailing was there an invoice?
- A Yes.

MR. KRAMER: I ask that this be marked as No. 19 for identification.

THE CLERK: A 1-page document is marked for identification as Government's Exhibit 19.

Q I am showing you Government's Exhibit 19 for identification. Is that the invoice received by your company?

A Yes.

MR. KRAMER: And we ask that this be offered into evidence.

THE COURT: Let it be marked.

MR. MICHELMAN: May : have the number, please?

MR. KRAMER: 19.

THE CLERK: Government's Exhibit 19 is received

in evidence.

- Q How is it that you came to get this item?

 A Well, all bills for advertising or listings in directories and so forth are referred to our department.
- Q Can you tell the jury and the Court what the chain of events, from the time that item entered your corporation in the mail, would be? Who received it first, and how it actually came in your hands?
- A Well, it is picked up by the post office department and taken to the mail room. Any items that are addressed to individuals are therefore sent to those people involved. If it is addressed to the corporation it is given to the office service department and it is opened by the manager of office services. He then looks at the contents and determines by its contents where it belongs and sends it to the proper party.
 - Q And it is sent to you?
- A That is right.
- Q I am going to show you Government's Exhibit 4.

 Have you ever seen that letter -- strike that.

Was that letter included with the invoice?

- A No, sir.
- Q As a matter of normal routine, in your company, Todd Shipyards, had that letter been with the invoice

- A It is handled by the Post Office authorities. It goes there and we pick up the mail every day from the Post Office.
- Q In other words, your mail is not delivered, you pick it up from the Post Office?
- A That is correct.
 - Q And it is picked up by the mailing clerk?
- A That is correct.
 - Q Then it is taken to the mail room?
- A That is correct.
- Q Can you give me a fair and reasonable estimate of the number of pieces of mail handled by your mail room every day?
- A Hundreds.
 - Q Could it be thousands?
- A No.
 - Q But hundreds?
- A Yes.
 - Q How many people are in the mail room?
- A I would say five.
- Q Do you know who opened that envelope, the window envelope?
- A Who opened it?
 - Q Yes, sir.

- A I already said it was opened by the manager of office services, because it was addressed to the Shipyard Corporation and not an individual.
- Q How many people handled that before it got to your desk?
- A Handled it?
 - Q Handled the piece of mail.
- A Three, perhaps.
 - Q Could it have been four?
- A No.
- Q And at the time it was opened you were not there, were you?
- A Physically opened the first time?
 - Q Yes, sir.
- A No.
- Q So you do not know in fact what was in that envelope when it was opened, to your own knowledge?
- A It is kind of a hypothetical question, because I know the work of the department from which it came, and I know that it was in the envelope when it reached me.
- Q Mr. McMillan, I am asking you whether you, of your own knowledge with respect to that exhibit which is before you, if you were present when it was opened.
- A I was not present when it was opened.

Q Do you, of your own knowledge, know exactly what was in that envelope at the time it was opened?

A No, I could not say for sure.

MR. MICHELMAN: Thank you. I have no further questions.

THE COURT: Is there any redirect?

MR. KRAMER: There is no redirect.

THE COURT: Thank you Mr. McMillan. You may step down.

MR. KRAMER: The Government calls Miss Evanglina Rojas.

EVANGELINA ROJAS, called as a witness in behalf of the Government, having first been duly sworn by the Court, testified as follows:

THE COURT: Miss Rojas, it is important that all of the jury hear what you have to say, so please try to keep your voice up.

DIRECT EXAMINATION

BY MR. KRAMER:

- Q Miss Rojas, where do you live today?
- A 650 Shore Road, Long Beach.
- Q Are you living with the defendant, Mr. Garrison St. Clair?

- A Yes, I am.
 - Q How long have you been living with him?
- A For one year.
 - Q One year from today, roughly?
- A Roughly.
- Q On or about February 3, 1976, did you meet with a United States Postal Service investigator, Mr. Thomas Johnson?
- A I don't know if it was on that day, but I did.
 - Q Sometime in early February?
- A Yes.
- Q And did an interview take place between you and Mr. Johnson?
- A Yes, it did.
- Q Would you kindly tell the jury and the Court what it was that you told Mr. Johnson and what it was that he asked you?
- A Mr. Johnson asked me if I had done some stuffing for President Publishing Systems, and I told him I did. He asked me what was inside the envelope, and I told him what was in it. He showed me some papers and he asked me to identify them, which I did.

MR. MICHELMAN: I am sorry. I am going to have to ask the witness to please speak up.

A (Continuing) Then he asked me who else was present, and I told him that Garrison St. Clair was present, I was present, Mary Ann Clair, and Kari Hopper.

Q I am going to show you Government's Exhibits 1,
2, 19, and 4. Now, are these not the exact documents that
we are showing you, but similar to the documents that we
are showing you?

A Yes.

Q By Mr. Johnson?

A Yes.

Q Could you tell the jury what it was that you told Mr. Johnson you did with those documents?

A I stuffed them into this envelope.

Q You stuffed the return envelope, the letter, and the invoice into the envelope, is that what you told Mr. Johnson?

A Yes.

Q And you also told him that Miss Clair and Miss Hopper helped you do this?

A Yes.

Q Along with Mr. St. Clair?

A Yes.

Q Prior to speaking with Mr. Johnson had Mr. St.
Clair spoken with you about Mr. Johnson's forthcoming

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visit?

- A He did.
- Q When was the first time he mentioned that you might be interviewed by Mr. Johnson?
- A As soon as he had spoken to Mr. Johnson.
 - Q When was that?
- A January.
- Q Late January?
- Yes.
- Q Would January 23rd or January 24th refresh your recollection?
- A Yes.
 - Q It would be around there?
- Yes.
- Q Where did this discussion with Mr. St. Clair take place?
- A In my apartment.
 - Q Which was also his apartment?
- Yes.
- Q What did Mr. St. Clair tell you about this upcoming interview?
- A He told me that it was not at all serious, that Mr. Johnson was going to call me because he wanted to clear some things up, and that was all.

MR. KRAMER: Thank you very much.

MR. MICHELMAN: I have no further questions.

THE COURT: The next witness.

MR. KRAMER: The Government calls as its next witness Mr. Richard Selinka.

RICHARD SELINKA, called as a witness
on behalf of the Government, having first been
duly sworn by the Court, testified as follows:
DIRECT EXAMINATION

BY MR. KRAMER:

- Q Mr. Selinka, by whom are you employed?
- A Barbara Lynn Stores, Inc.
- Q And in December of 1975 were you employed by them?
- A Yes, I was.
 - Q What was your position then?
- A I am executive vice-president.
 - Q And you were then also?
- A Yes.
- Q Did there come a time in December of 1975
 that Barbara Lynn Stores received a mailing from an organization called President Publishing Systems, Inc.?
- A Yes.
 - Q I show you Exhibit 9 for identification.

initial on it, it would be stamped in the way that this one is and sent to me, and I okay all invoices.

Q I am going to show you Government's Exhibit 4 in evidence, a letter. Was that letter in the mailing that included the invoice?

A Not to my knowledge.

Q If that letter were in the envelope addressed to "Accounts payable" that that invoice was in, would you have received it in the ordinary course of business? A Absolutely. Everything would stay intact in the envelope. There is no reason for it not to be.

Q Did your company pay that invoice?

Yes.

And the check was drawn?

Yes.

MR. MICHELMAN: We will concede that a check was drawn and deposited in the account of PPSI.

MR. KRAMER: I offer this in evidence.

MR. MICHELMAN: No objection.

THE CLERK: Government's Exhibit No. 10 is received in evidence.

Now, before this check, Government's Exhibit 10, was drawn, did there have to be some approval process that the invoice went through?

- 15 Selinka for Government direct 111
- A Yes.
 - Q And did it go through that process?
- A I approved the invoice myself.
- Q Was there some reason that you approved the invoice?
- A Yes. Under a hundred, we at that time did not have complete scrutiny. We do now. We lowered the amount.
- Q Did you ever receive a refund from President
 Publishing Systems?
- A Yes. As I understand, we received it in June.
 - Q Of this year?
- A Yes.
- Q Did you ever receive any proofsheets or other materials from President Publishing Systems?
- A No.

MR. KRAMER: Thank you very much.

CROSS-EXAMINATION

BY MR. MICHELMAN:

- Q Your last statement was that you received the refund, is that correct?
- A Yes, sir.
- Q Did you receive a covering letter with the refund?

- A I never saw the refund. I just heard that it got to our firm.
- Q Did you also hear that it came with a covering letter?
- A No.
 - Q Who would have received the refund?
- A The refund probably would have gone directly to the accounts payable department. There is no initialing for a check that comes into our firm. It is merely deposited.
- Q Let me ask you, does mail come to your address or picked up in the office?
- A It comes to our address.
- Q When it comes to your address does it go to a mail room?
- A Yes.
- Q How many pieces of mail -- I am speaking loudly so you can hear me.
- A Thank you, I appreciate it.
- Q How many pieces of mail would you estimate that your mail room receives per day?
- A The mail room receives quite a bit of mail a day.
 - Q Bundreds of pieces?
- A I would say. A hundred pieces or more than a

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hundred; 150 pieces.

Q How many people work in that mail room? Two.

And would the envelope that the invoice came in, that is, Government's Exhibit 9 in evidence, have been opened in the mail room?

A No. The mail room people do not open the mail.

They would have directed it to "Accounts payable, " because that is what the envelope said? A Right.

Q It was opened in accounts payable, is that correct?

If that is where it was sent. I don't have the envelope, but if there was an "Accounts payable" on it, then that is where it went.

I show you Exhibit 1, Government's Exhibit 1 in evidence, and represent to you that this is a reasonable facsimile of the envelope which was sent to your firm.

A Well, I don't remember the envelope, but it says "Accounts payable," so it would have gone to the accounts payable.

You don't remember the envelope, the envelope come up from accounts payable to you?

Yes. When accounts payable generally gets invoices which are not directed to me in particular. And when they do, they slice the envelope top and look inside of it, and if it is this type of invoice where an invoice shows that merchandise has been received, or whatever it is we are paying for has been received, then they will put it back in the envelope and give it to me in total.

Q Government's Exhibit 4, that is in front of you, you have your hand on it right now. Will you please look at it. Can you say positively, Mr. Selinka, that you never saw that before?

A I don't recall ever seeing this.

Q But you are not absolutely positive, am I correct?

I suppose you are correct in saying that.

MR. MICHELMAN: Thank you. I have no further questions.

THE COURT: Is there any redirect? MR. KRAMER: There is no redirect. THE COURT: The next witness.

RONALD J. SCOTTO, a witness called in behalf of the Government, having first been

25 Scotto - for Government - direct 121 A-79

Q Yes.

A No.

MR. KRAMER: Thank you.

CROSS-EXAMINATION

BY MR. MICHELMAN:

Q Mr. Scotto, what is your position with the Kings Corporation?

A Corporate accounting manager.

MR. KRAMER: One second please. I have an item here. Can we have this marked as 3500 material, your Honor?

THE COURT: Let it be marked.

THE CLERK: A 1-page document is marked for identification as Government's Exhibit 3500-13.

- Q I am sorry. In the discussion I didn't hear your answer.
- A The corporate accounting manager.
- Q Does your company receive its mail in the Post
 Office or does it receive it at its address?
- A It receives it at its address.
- Q When it receives it, what part of your company receives it?
- A The receptionist.
 - Q And does it go from the receptionist to someone

else?

A The receptionist sorts the mail by departments, or if it is address to an individual. And she is earlier than everybody else. And then they come in and pick up their bundles that we leave out.

Q Bundles. About how many pieces of mail does the Kings Corporation receive a day?

A I really don't know.

Could it be hundreds?

A Probably not hundreds. We don't have a big corporate headquarters, only 30 people in total up there.

Q From there you say that the mail went to the accounts payable department?

Right.

And it was opened where?

Accounts payable.

Q And were you there when it was opened?

No.

Can you tell me beyond any doubt that Government's Exhibit 4 was not included in the mail, to your own knowledge?

MR. KRAMER: May it please the Court, the Government will stipulate that no witness could stipulate as to beyond any doubt as to that question.

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THE COURT: He is entitled to inquire.

A I cannot beyond any doubt say that that was not in there.

MR. MICELLMAN: I have no further questions.
Thank you.

MR. KRAMIR: I call Mr. William Graves.

WILLIAM GRAVES, called as a witness
on behalf of the Government, having first been duly
sworn by the Court, testified as follows:

DIRECT EXAMINATION

BY MR. KRAMER:

- Q Mr. Graves, by whom are you employed?
- A Amerace Corporation.
 - Q And in December of 1975 were you employed by them?
- A Yes.
 - Q What position did you hold in December of 1975?
- A Bookkeeper.
- Q Do you recall whether, in December of 1975,
 the Amerace Corporation received a mailing from President
 Publishing Systems, Inc.?

A Yes.

MR. MICHELMAN: If it please the Court, the same objection as before -- I am sorry, no objection. The objection is withdrawn.

I show you Government's Exhibit 4. Was that letter enclosed with the invoice when you received it? No.

Did there come a time that Amerace paid that invoice?

Yes.

Q Was the check drawn?

Yes, it was

Q I am going to show you --

MR. MICHELMAN: We will concede that a check was drawn on the corporation and that it was deposited in PPSI checking account.

MR. KRAMER: May I ask that No 14 be put into evidence.

THE CLERK: Government's Exhibit 14 is received in evidence.

Q Did the Amerace Corporation ever receive any proofsheets from President Publishing Systems?

No.

Q Did it ever receive any refund from President Publishing Systems?

Not to my knowledge.

Q Would a refund, if it came in, come to you?

Yes.

- Q Mr. Graves, is it possible that monies could have been received by your corporation that you don't have an instant recollection about?
- A It is possible, yes.
- Q So that if a check came to your corporation it is possible that you might not have knowledge of it, isn't that correct?
- A Well, I was on vacation for a couple of weeks, so it is possible during that time.
- Q It is possible that during that time that monies were received that you don't know about?
- A True.
 - Q Thank you.

Now, you testified before that you have a distinct recollection of receiving Government's Exhibit 13, am I correct?

A Yes.

- Q Do you have a distinct recollection of receiving Government's Exhibit 2?
- A Mo.
- Q Do you have a distinct feedilection of feedi
- A No. I never received that.
 - Q So you never received the business reply en-

velope, am I correct?

- A And I don't have a recollection of receiving it.
- Q Did you state on direct examination that the only thing that was brought to you was Government's Exhibit 13?
- A True.
- Q That you have a mial room that receives the mail for your corporation, am I correct?
- A Yes.
 - Q How many pieces of mail are handled there a day?
- A I really don't know. I don't know.
 - Q Could it be hundreds?
- A I really don't know.
- Q Many? Would you say it is many more than five or ten?
- A More than five or ten, yes.
- Mr. Graves, do you know who opened the envelope in which Government's Exhibit 13 was contained?
- A Yes, my secretary.
 - Q Were you there when she opened the envelope?
- A No.
- Q So you cannot say, to your own knowledge what was contained in the envelope received by your company and opened by your secretary, am I correct?

True. A

> MR. MICHELMAN: Thank you. I have no further questions.

MR. KRAMER: Thank you Mr. Graves.

I call Mr. Thomas Johnson.

F. JOHNSON, called as a THOMAS witness or behalf of the Government, having first been duly sworn by the Court, testified as follows: DIRECT EXAMINATION

BY MR. KRAMER:

- Q Mr. Johnson, by whom are you currently employed?
- The United States Postal Inspection Service. A
 - Q And what position do you hold with them?
- United States Postal Inspector. A
 - Q For how long have you held that position?
- Five years.
 - Q What are the duties of a postal inspector?
- To enforce any United States laws applicable to the U.S. mails.
- Q Did there come a time that you were assigned to investigate an organization called the President Publishing Systems, Inc.?

A Yes.

When was that?

- A In approximately January of 1976.
- Q As part of your investigation did you have occasion to get in touch with a Miss Gabler of A-1 Duplicating?
- A Yes.
 - Q How did you get in touch with her?
- A We received a mailing, and from the mailing we identified that the postal meter on the mailing was assigned to A-1 Duplicating. The mailing bore the return address of President Publishing Systems, Inc.

Based on the check-out of the meter, we contacted Miss Gabler.

- Q And around when was it that you contacted her?
- A It would have been in January of '76. I can check the exact date.
- Q Will you do that please, with the Court's permission?
- A It would have been on January the 8th.
 - 0 1976?
- A 1976.
 - Q What was the nature of this contact?
- A To identify as to who was the operator of President Publishing Systems, Inc.
 - Q Was this a telephonic contact or did you speak

to her in person?

A By telephone.

Q Would you tell us, on that date, what you said to Miss Gabler, to the best of your recollection, and what she said to you?

A I asked her as to who the operator of President

Publishing Systems, Inc. was, and I asked her the amount

of billing they had made, and so forth. And she responded

to me that she would not give me that information over

the phone at this point, not knowing who I was. I left

her a call-back number where she can call and verify it,

and she can check with the Long Beach post office, who I

had contacted earlier. And that was about the extent of

the conversation.

Q Subsequently did you have any additional conversation, either telephonically or otherwise, with Miss Gabler?

A Yes, I had occasion to serve a subpoena on Miss
Gabler following that telephone conversation for all the
records relative to President Publishing Systems.

Q And at that time did you have any conversation with Miss Gabler?

A I had asked her at that point as to why she had contacted Mr. St. Clair, who had been identified as the

operator of President Systems Corporation, instead of relaying the information to me.

- Q Did she respond to that?
- Yes, in a roundabout way.
 - Q Could you tell us what she said?
- A She was very anti-Government, to say the least, and felt that we had no right --

MR. MICHELMAN: Objection. I would like to hear the testimony rather than the conclusion of the witness.

A (Continuing) -- we had no right prying into the affairs --

- Q That is what she said to you?
- Yes.
- Q Did she in any way characterize her relationship or regard of Mr. St. Clair?
- Yes, she stated he was a friend of hers.
- Q Did you have any further conversation with Miss Gabler?
- A Yes, I had a telephone conversation with Miss Gabler subsequently.
 - When was that?
- That was on March 17, 1976.
 - Q What was the nature of that telephone

.

Q So at that point we are not involved in the criminal aspect?

A Correct.

Q What did Mr. St. Clair say to you at that time, and what did you say to him?

A I stated at that point that I was going to hold his mail and that I would like to speak to him about it, that there was a question as to whether it was a solicitation or a billing, and I requested a personal interview. He stated he would come in on that Monday. He further advised me at that point that he had sent out a cover letter with the invoice explaining that it was a solicitation and not a billing, and that if people didn't want the service all they had to do was return the invoice.

Q Now, did you arrange a meeting on that Monday?

A Yes, I did.

Q Did that meeting take place?

A No. On the date of the meeting I received a phone call from Mr. St. Clair cancelling. It was either Mr. St. Clair or his attorney cancelling the meeting.

Q Did there come a time that you did meet with Mr. St. Clair again?

A Yes.

Q When was that?

Q 1976?

A 1976.

Q Thank you.

MR. KRAMER: We offer that into evidence, your Honor.

MR. MICHELMAN: I have no objection.

THE COURT: Let it be marked.

THE CLERK: Government's Exhibit 17 is received in evidence.

MR. KRAMER: It is stipulated that there is no certificate of doing business that has been filed by President Publishing Systems, Inc.

MR. MICHELMAN: The defendant so stipulates.

Q Following this meeting on the 23rd of January,

1976, with the defendant and his attorney, did you attempt
to contact the three women?

A Yes, I did.

Q Whom did you contact first?

A I contacted first Evangelina Rojas. I attempted to contact all of them about the same time, but I was successful in reaching her first.

Q Could you tell us how it was that you came about contacting her?

A I believe, as I recall, that I contacted her through

- a letter asking her to call my office.
 - Q Did she?
- A I think so, because we had set up an appointment subsequently, where we then interviewed her.
- Q At the time of this interview -- did you interview her?
- A Yes.
 - Q And around when was that?
- A February 3, 1976.
- Q Who else was present at that interview, besides yourself and Miss Rojas?
- A The Postal Inspector, David Crasella.
 - Q And where did the interview take place?
- A In my office at the main Post Office in New York.
- Q Would you tell us what Miss Rojas said, what questions you asked her, and what responses she gave?
- A The questioning concerned at that point the placing of mail matter in the envelopes for President Publishing Systems, Inc.

Miss Rojas advised us that around December 19, 1975-she remembers the date since it was Christmas time -- she
and two other girls were having coffee with Mr. St. Clair
in his apartment and he asked them to stuff envelopes
for him.

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She stated that the contents of the envelopes were return-mail envelopes, a paper with a green sheet and a white sheet, a letter. She was shown the specific items which we had obtained under subpoena from A-1 Duplicating, and acknowledge that these were the items placed in the envelopes.

- Q Let me just show you Government's Exhibit 4 and Exhibit 13 and Exhibit 2, and also Government's Exhibit 1.

 Are these the items, or identical copies of the items, that you showed Miss Rojas?
- A Yes, we showed her copies of these three items -- of these four items -- copies of them.
- Q Did she identify the two women who were there at the time helping with the stuffing.
- A Yes.
 - Q Who did she identify them to be?
- A Mary Ann Clair and Kari Hopper.
- Did any other information come forth from her?

 A Just personal information. She stated that she had known Mr. St. Clair for a year and a half. She had met him on the beach. And since her mother has a summer home in Long Beach, she advised that she was presently a law student at Hofstra University.
 - Q Did Miss Rojas tell you she was living with

than the postal inspector, so as not to embarrass anybody.

And she stated she would have to get dressed. I said,

okay. She opened the door, and I gave her the subpoena.

- Q And that was it?
- A That was it.
- Q Did you make any attempts to get in touch with Miss Hopper and Miss Clair?
- A Yes.
 - Q Would you tell what attempts were made?
- A I had gone by the apartment a number of times.
 - Q Which apartment?
- A Both Miss Hopper's and Miss Clair's apartment building, but no one was home. I believe on the second attempt
 I left a calling card, one of my personal calling cards,
 which I wrote on the card, "Please contact me with regard
 to an investigation of President Publishing Systems, Inc.

When I did not hear anything as a result of that,

I sent a certified letter, which was subsequently returned
unanswered.

I then called security at American Airlines and requested them to give me the information as to what flight they were on, since I wanted to talk to them in regard to a mail fraud.

Q How did you learn that they -- I sssume they

were working for American Airlines?

- A Yes.
 - Q How did you learn that?
- A Mr. St. Clair had told us that they were stewardesses, at the January 23rd meeting, for American Airlines, or his attorney had said that they were stewardesses, or one of the two.
 - Q So you contacted American Airlines?
- A Yes. American Airlines would not give me any of the personal information, but stated they would have them contact me. And about ten minutes witer I talked to American Airlines security, one of the girls contacted me, and we arranged the interview.
- Q At any time in your conversations with the American Airlines personnel did you threaten to have the girls lose their jobs or cause that to happen?
- A No.
- Did you indicate to the American Airlines personnel why it was that you wished to speak to the women?

 A I was investigating a mail fraud case in which they were not involved, but possibly witnesses, and I would like to talk to them.
- Q And the women got in touch with you?

 A Yes.

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- Q Did you arrange an interview at that time?

 A Yes.
 - Where did that interview take place?

 MR. KRAMER: May it please the Court, while

 Mr. Johnson is looking for the notes, there is a

 stipulation on the part of the Government's counsel

 that this document has to be marked.

THE CLERK: A 1-page document is marked as Court's Exhibit B.

MR. MICHELMAN: That is a letter that was received from the State of Delaware, Department of State, Division of Corporations, wherein it is addressed to the defendant, wherein it says, "Dear Mr. St. Clair: We advise President Publishing Systems, Inc. was reserved on December 4, 1975. However, the reservation for this name expired January 4, 1976. If we can be of any further assistance, do not hesitate to contact this office. Very truly yours, Robert H. Reed, Secretary of State."

I ask that this letter be circulated among the jury, please.

MR. KRAMER: It already has been read to the jury. I don't think it is necessary.

THE COURT: Is there any objection to the document being marked into evidence?

Give it to the jury and let them see it.

THE CLERK: Court's Exhibit B is received in evidence.

Mr. Johnson, in lieu of your finding your notes, can you tell us, from your own recollection, what transpired at this interview with Miss Clair and Miss Hopper? Yes. I asked them if they had ever stuffed envelopes for Mr. St. Clair, President Publishing Systems, Inc. They advised me, no, they did not in fact. They stated that the first time they had heard of President Publishing Systems, Inc. was when I left my calling card, and it had been written on the card. They stated that they were returning from a ski trip in Vermont one evening, and Mr. St. Clair came down to help them unload their vehicle. At that point he was unloading their vehicle, and he advised them that an individual was going to contact them, a postal inspector, and identify myself. And he said he was going to talk about a minor business matter concerning some envelope-stuffing, and he wanted them to tell me that they had put the three items in the envelopes. And he had emphasized the three items, which were a business reply envelope, an invoice, and a cover letter. I asked them if they had actually ever done envelopestuffing for him, and they said they had not. And they repeated it a number of times.

MR. KRAMER: Thank you very much.

CROSS-EXAMINATION

BY MR. MICHELMAN:

Q Mr. Johnson, when you were called by the defendant on January 8, 1976, the call was intiated by him, is that correct?

A That is correct. As a result of a call from Miss Gabler.

Q A call to you from the defendant that he made, you did not call him?

A Correct.

Q The next time you had a conversation with him, at which point you said you were investigating a violation of the Postal regulations, is that right?

A Yes.

Q And you said to him that you could not determine whether there was a solicitation or an actual invoice, is that right?

A That is correct.

Q Now the Postal regulation says, in effect, that if it is an invoice -- that it is not an invoice if it

Government and the Postal Service entered into an agreement whereby all mails be presented to the President Publishing Systems, Inc. at 199 Merrick Road, Lynbrook, New York, be returned to the senders, marked "Out of business."

MR. MICHELMAN: Okay.

(In the presence of the jury.)

MR. MICHELMAN: At this point there is a stipulation between counsel that the defendant, the Government and the United States Postal Service entered
into an agreement on January -- we are not sure
whether it is January 23rd of January 29, 1976 -whereby the mail sent to President Publishing Systems,
Inc. would be returned to the senders, marked "Out of
business."

MR. KRAMER: It is so stipulated, except the agreement was between the United States Postal Service and the defendant.

MR. MICHELMAN: Fine.

Q The occasion of the 23rd of January in court
was for argument respecting a temporary injunction enjoining the receipt of mail, right?

MR. KRAMER: I am going to object. This is totally ireelevant to this case. There is no

probative value.

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THE COURT: I thought we had just agreed to that effect.

MR. MICHELMAN: Are we going to get a stipulation?

Excuse me. The offer of proof is there, that it was

not until the 23rd of January that there was in fact

an injunction against the receipt of mails by the

defendant, yet this man is stopped on January 8th,

long before there was an actual proceeding brought.

MR. KRAMER: It is stipulated there was an administrative stop of the mails starting around January the 8th and continuing thereafter.

MR. MICHELMAN: I try to cut time here. I am not a time-waster. But for the purposes of the next two questions, I am showing that this man had used bullying tactics, and I don't think the stipulation will give me that impact, although I always stipulate when I can. And I taink it is extremely relevant here to show how he puffed up the next two witnesses. I am trying to show there are two ways of doing it, the right way and the other way.

THE COURT: Never mind the stipulation. Go ahead and ask your questions.

The objection is overruled.

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(In the hearing of the jury.)

- Mr. Johnson, you testified that Mr. Michelman asked you to speak with him and you declined to do that?

 A Yes, that is correct.
 - Q Why was that?
- A It is a normal procedure with our service not to discuss any of our investigations with defense attorneys.
- Now, in the meeting on January 23, 1976, that took place in the office of the United States Attorney, at which time Mr. St. Clair and Mr. Sands were present, did you ask Mr. St. Clair for the names of printers that he may have used or contemplated using in connection with his enterprise, President Publishing Systems, Inc.?
- A Yes, the question was asked. I don't know, I can't recall, if it came through his attorney conferring with Mr. St. Clair or whether Mr. St. Clair gave it to me directly, but he was asked concerning the printers he used.
 - Q What names did he give?
- A The only name he gave us was Mastercraft Printers, which is in, I believe, Great Neck, New York.
 - Q Did he say what work they did for him?
- A He indicated they had printed the invoice.

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 - Q Just one second --

MR. KRAMER: I have no further questions.

MR. MICHELMAN: I have no further questions, your Honor.

THE COURT: Thank you, Mr. Johnson.

Mr. Kramer, I have a conference I have to attend to at 4:30.

*MR. KRAMER: The next two witnesses, the two stewardesses, will be somewhat lengthy.

THE COURT: Do you intend to call Mr. Sands?

MR. KRAMER: No, we do not.

THE COURT: Well, let's begin with one of the witnesses. We will use the 15 minutes which remain and get as far as we can.

MR. KRAMER: The Government calls Miss Kari Hopper.

KARI HOPPER, a witness called on behalf of the Government, having first been duly sworn by the Court, testified as follows:

DIRECT EXAMINATION

BY MR. KRAMER:

Q Miss Hopper, by whom are you employed?

A American Airlines.

- Q And in what capacity?
- A A flight attendant.
 - Q For how long?
- A Seven years.
- Q Do you know a man by the name of E. Garrison St. Clair?
- A Yes.
 - Q Do you see him in the courtroom today?
- A Yes.
 - Q Can you identify him?
- A The gentleman over there.

MR. MICHELMAN: The identification is conceded by the defendant, your Honor.

- Q When did you first meet Mr. St. Clair?
- A little more than a year ago.
- Q Could you please speak up so the people in the back of the Court can hear you.

Where did you meet him?

- A Where he lives, on Shore Road, in Long Beach. My girlfriend lives in the same building with him.
 - Q And what were the circumstances of your meeting?
- A Just friendship over a lot of girls, three of the girls I knew within the building.
 - Q Thereafter did you occasionally see him from

- A Yes, we were friendly.
- Q How would you characterize your relationship with him?
- A Friends.

time to time?

- Q Did there come a time in January of 1976 that Mr. St. Clair spoke to you about an investigation?
- A I don't remember it being referred to as that.
 - Q Well, did he speak to you about a mailing?
- A No, I would not say that either.
- Q Did there come a time when Mr. St. Clair spoke to you, in January, 1975, asking that, or informing you that you would be questioned by somebody?
- A Yes, he said somebody, my girlfriend and myself, that he would come to us and discuss some questions, and he wanted us to say certain things.
 - Q Around when did this occur?
- A January 23rd.
 - Q 1976?
- A Yes.
 - Q Can you tell us where it occurred?
- A In Mary Ann Clair's apartment.
 - Q Which is located where?
- A At 650 Shore Road.

- Q Is that the same building as Mr. St. Clair lives in?
- A Yes, it is.
 - Q Around what time of day was this?
- A It was in the evening. I am not positive what time.

 Mary Ann and I went to Vermont skiing and we had just
 returned home.
- Q Who else was present besides yourself and Mr. St. Clair.
- A Mary Ann.
 - Q Anyone else?
- A No.
- What did Mr. St. Clair say to you and what did you say to him?
- A Well, when Mary Ann and I got home there was a note under our door to call Garry, so we called, and we were bringing in things from the car, and he came down, and he made the two of us sit down. And he said, "I want to ask you to do something for me; somebody is going to call you. I don't know if he said he will call or contact you. And I want you to say you put some things in envelopes for me." And Mary Ann and Ididn't know what he was talking about, but he was very specific that he wanted us to say that we put three items in the

envelope, a bill, a return envelope, and a letter. And envelope, about the letter.

he was very specified at that time Mary Ann was very doubtful about

is and the quest Q and Just tell us about yourself.

A. She did most of the talking at that point.

She did Q Did You say anything to Mr. St. Clair?

Mo, because at that point we had no idea about what it had to do with. We thought it was something that is business, that maybe had been forgotten, or he wanted — business. You say, "business," Wers you sware of any particular business that Mr. We. Clair was involved in?

particular huminess deal or accepting like that.

what business it may have been?

A No.

Q Had you ever heard at that time of President Publishing Systems, Inc.?

A No.

in envelopes for President Publishing Systems, Inc. or

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- Q Did you have occasion to discuss what you said Mr. St. Clair asked you to do before that time?
- A With who?
- Q You stated on direct examination that Mr. St.

 Clair asked you to state to somebody who is going to call

 you that you stuffed envelopes in Mr. St. Clair's apartment
 and that you put in three pieces of printed matter, right?

 A Yes.
- Q Now, how much time elapsed between that alleged conversation and your conversation with Mr. Johnson?
- A I am not positive of the amount of time. I think it was about a week and a half, two weeks.
- Q Did you have occasion to discuss what Mr. St. Clair allegedly requested of you with Miss Clair between the time that you say Mr. St. Clair asked you to do this and the time that Mr. Johnson interviewed you?
- A Yes, we did.
 - Q Many occasions?
- A Yes, and we decided we would not lie for Garry, we would tell the truth.
- Q You decided you were going to tell the truth?

 A Yes.
- Q Were you telling the truth when you said that Mr. Johnson never raised his voice at you?

in behalf of the Government, having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KRAMER:

Q Good morning, Miss Clair.

By whom are you employed?

- A I am employed by American Airlines.
 - Q In what capacity?
- A A flight attendant.
- Q For how long have you been a flight attendant for American Airlines?
- A Six and a half years.
- Q Do you know a man by the name of Garrison St. Clair?
- A Yes, I do.
 - Q Is he in this courtroom?
- A Yes.
 - Q Can you identify him?
- A Yes.
 - Q Will you?

MR. MICHELMAN: The identification of the defendant is conceded, your Honor.

- Q Do you know a woman by the name of Kari Hopper?
- A Yes, I do.

- A It was a Friday night. And I believe the date was January 23rd.
 - Q Where did this conversation take place?
- A In my apartment.

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- Q Who else was present besides yourself and Mr. St. Clair?
- A Kari Hopper?
- Q What did Mr. St. Clair say and what did you say at that meeting?
- A I had returned from a skiing trip. There was a note under my door from Garry St. Clair asking me to call him when I came back. I did, and Garry came down the hall and came into my apartment and asked Kari and I to sit down, and said, someone will be contacting you and I want you to -- this is not a direct quote -- I want you to say that you stuffed envelopes for me and three things went into the envelopes.
- Q What were those three things, did he say, did he tell you what these three things were?
- A Yes.
 - Q What were they?
- A An envelope, a return envelope, a letter, and an invoice.
 - Q Did Mr. St. Clair tell you who it would be

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that would be getting in touch with you?

A No, he didn't.

Q Did Mr. St. Clair mention the name "Mr. Tom Johnson" to you?

A No, he didn't.

Q Did he mention the name or the office of Postal Inspector to you?

A No, he didn't.

Q Did Mr. St. Clair say why this person would be getting in touch with you?

A No, not specifically. I asked the question. I was not answered specifically. It was left ambiguous.

Did you say anything to Mr. St. Clair in response to this request?

A Yes, I did.

Q What did you say?

A I said I did not stuff envelopes for you, nor will I say I did.

Q What did Mr. St. Clair say to that?

A I don't remember specifically, but he was upset.

Q I beg your pardon?

A He was upset that I gave that answer to his request, and he made it seem like it was not important or a serious thing, but it was important to him, and that he tried to

A specific time, which was the night before I met with Mr. Johnson, the postal inspector, I had gone down to Garry's apartment, which is on the same floor as mine, to tell him and make it straight that no matter what happened — I did not tell him I was seeing Mr. Johnson — but no matter what this eventually led to, whatever happened, for one and for all, he is not to expect me to say I did something I did not do. And when I did that, I went down to the apartment and I went into his den, and I said that to him.

He became angry at me, and said -- this is not a quote -- but to the effect that he was foolish to get involved in this and he was more of a fool to think that I would help. And I said to that, "Case closed," and walked out of his apartment.

Q Was anybody else present at that time, at that last conversation?

A Yes.

Q Who?

A Evangeline Rojas.

Q Now, when did you first learn that somebody
was in fact -- somebody other than Mr. St. Clair was in
fact trying to get in touch with you converning something?

A I had received in my mailbox a card, a business

her state of mind was at the time.

THE COURT: I have considered your objection, and it is overruled.

You may ask the question.

MR. MICHELMAN: Respectfully excepted.

(Record read.)

DIRECT EXAMINATION

BY M. KRAMER (Continued):

Q Miss Clair, returning to the question I asked you, why was it when you received the business card from Mr. Johnson, why was it that you did not get in touch with him?

A The reason I did not immediately contact Mr. Johnson was because I knew where I stood, what I felt, what I did and did not do, and I did not want to face somebody asking me because it would have to hurt somebody that I had been friends with.

MR. KRAMER: Thank you very much.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. MICHELMAN:

Miss Clair, you stated on direct examination that you worked for American Airlines for six and a half years?

printed matter, right?

- A In essence that is what it came down to.
 - Q Did you ask him what printed matter?
- A Yes, I asked him in a way that I didn't understand.

 I said to Garry, I don't understand what you are talking about. Wait a minute, what are you talking about? And I never did receive a specific answer.
- A He may have said someone, somebody. He may have said a person. He did not say any specific proper name or proper name of an agency or business category, or anything you want to call it. It was an improper noun.
- Q Isn't it a fact, Miss Clair, that Mr. St. Clair told you he had been to court that morning? Did he tell you that?
- A He said something about meeting with a judge.
- Q And didn't he tell you that after he met with the judge that he had a conversation with the postal inspector?
- A I don't think so.
- Q Isn't it a fact, Ms. Clair, that he told you that a postal inspector would be getting in touch with you, and just to tell him what took place in the apartment, you are not involved?

Presidents' Pu

Presidents' Publishing Systems, Inc.
199 MERRICK ROAD
LYNBROOK, NEW YORK 11563

Attention: ACCOUNTS PAYABLE

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First Class Permit No. 857 Lynbrook, N.Y.

Business Reply Mail No postage stamp necessary if mailed in the United States

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Thank you, The Editors



Presidents' Publishing Systems, Inc.

199 MERRICK ROAD LYNBROOK, NEW YORK 11563

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6BC Nº 2275

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DATE:

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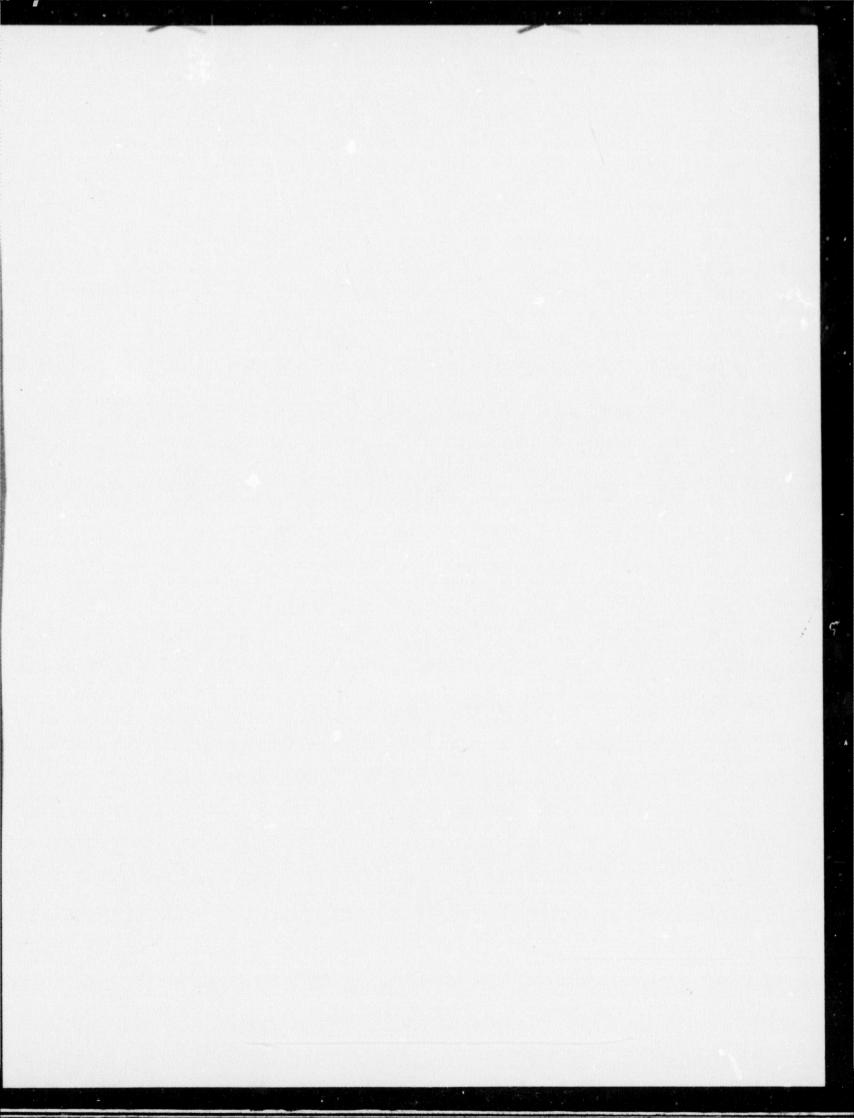
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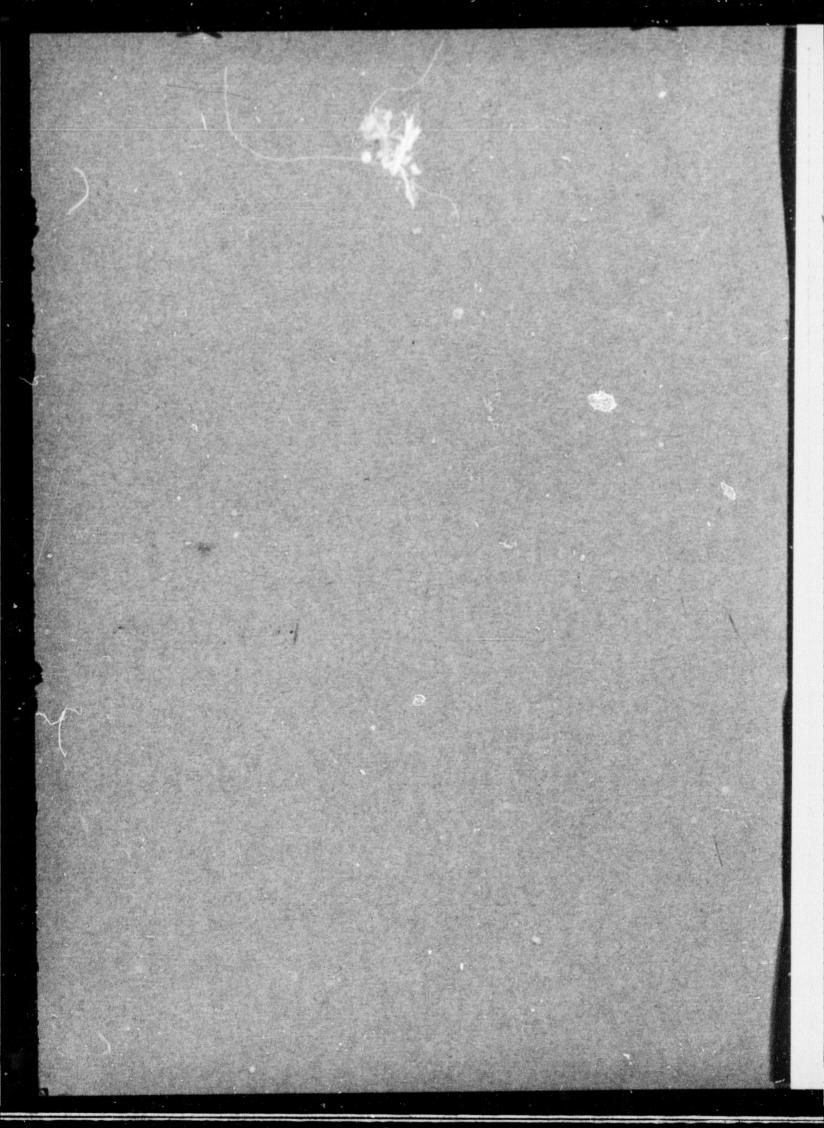
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AFFIDAVIT OF PERSONAL SERVICE

STATE OF NEW YORK
COUNTY OF RICHMOND ss.

EDWARD BAILEY being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 286 Richmond Avenue, Staten Island, N.Y. 10302. That on the ²⁵ day of Jan. ,1977 at No. 225 Cadman Plaza East, Brooklyn, NY

upon U.S. Atty. East. Dist. of NY

the Appellee herein, by delivering /true copy(ies) thereof to him personally. Deponent knew the person so served to be the person mentioned and described in said papers as the atty. for the Appellee therein.

Sworn to before me this 25 day of Jan. 1977.

Edward Bailey

WILLIAM BAILEY

Notary Public, State of New York

No. 43-0132945

Qualified in Richmond County

Commission Expires March 30, 1978